

H.B. 2842 (Parker) Relating to the creation, administration, powers, duties, operation, and financing of Montgomery County Municipal Utility District No. 87, of Montgomery County, Texas. (31-0) (31-0)

H.B. 2849 (Harris of Dallas) Relating to the use of certain probate court fees in Dallas County. (31-0) (31-0)

H.C.R. 106 (Armbrister) Authorizing a committee to be created to designate a Poet Laureate for the State of Texas. (vv) (vv)

**BILLS REMOVED FROM
LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
H.B. 431	Whitmire, Haley
H.B. 467	Brown, Haley
H.B. 493	Parker, Truan
H.B. 2623	Truan, Haley
H.B. 2845	Whitmire, Haley

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Truan, the Senate at 10:35 a.m. adjourned until 11:00 a.m. today.

**SEVENTY-FIFTH DAY
(Monday, May 24, 1993)**

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by Senator Truan.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Pastor David K. Bernard, New Life United Pentecostal Church, Austin, offered the invocation as follows:

Our heavenly Father, thank You for the gracious blessings You have bestowed upon each one of us. Thank You for the

opportunity to serve the people of this state, and in doing so, to serve You. As we begin a new day's work, grant us the courage to address the issues forthrightly. Grant us the wisdom to resolve the problems before us. Grant us the understanding to act justly, fairly, and compassionately. Grant us the humility to set aside personal motives and to seek the good of the people and the will of God. Lord, do not let this prayer be a mere formality, nor these words mere platitudes, but let faith rise in our hearts, and let the power of Your holy spirit be manifested in our lives. Touch with Your presence those in this chamber who need Your help today. Bring deliverance to those who are bound. Bring healing to those who are hurting. Bring peace to those who are troubled. In every situation, help us to recognize Your divine authority and to give You all the glory. In the name of the Lord Jesus Christ, I pray. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-SPONSOR OF HOUSE BILL 2685

On motion of Senator Henderson and by unanimous consent, Senator Moncrief will be shown as Co-sponsor of H.B. 2685.

CAPITOL PHYSICIAN

Senator Montford was recognized and presented Dr. Morris Knox of Brownfield as the "Doctor for the Day."

The Senate welcomed Dr. Knox and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

S.C.R. 83	S.B. 281	S.B. 588	S.B. 1073
S.C.R. 92	S.B. 284	S.B. 617	S.B. 1074
S.J.R. 31	S.B. 314	S.B. 667	S.B. 1093
S.B. 12	S.B. 324	S.B. 672	S.B. 1140
S.B. 26	S.B. 332	S.B. 729	S.B. 1142
S.B. 46	S.B. 338	S.B. 749	S.B. 1169
S.B. 129	S.B. 346	S.B. 771	S.B. 1196
S.B. 137	S.B. 386	S.B. 784	S.B. 1197
S.B. 202	S.B. 441	S.B. 807	S.B. 1243
S.B. 208	S.B. 450	S.B. 817	S.B. 1251
S.B. 209	S.B. 493	S.B. 826	S.B. 1255
S.B. 213	S.B. 521	S.B. 831	S.B. 1272
S.B. 218	S.B. 536	S.B. 841	S.B. 1293
S.B. 239	S.B. 558	S.B. 842	S.B. 1328

S.B. 243	S.B. 560	S.B. 965	S.B. 1334
S.B. 246	S.B. 564	S.B. 971	S.B. 1340
S.B. 252	S.B. 586	S.B. 976	S.B. 1445
S.B. 271	S.B. 587	S.B. 981	S.B. 1470

S.B. 86 (Signed subject to Art. III,
Section 49a of the Constitution)

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read first time and referred to the committee indicated:

H.C.R. 125 to Committee on Finance.

COMMITTEE SUBSTITUTE HOUSE BILL 2741 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2741, Relating to the regulation of professional counselors and to the continuation of the Texas State Board of Examiners of Professional Counselors; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2741 ON THIRD READING

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 2741 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

HOUSE BILL 2564 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2564, Relating to the regulation of persons engaged in certain business activities; providing civil penalties.

The bill was read second time.

Senator Sims offered the following committee amendment to the bill:

Committee Amendment

H.B. 2564 is amended by adding the following new Section 13 to the bill and by renumbering all subsequent sections accordingly:

"SECTION 13. APPLICABILITY. This Act does not apply to a repair facility located within the city limits of a city with a population of 50,000 or fewer."

The committee amendment was read.

Senator Sims offered the following amendment to the committee amendment:

Floor Amendment

Committee Amendment No. 1 to **H.B. 2564** is amended by deleting the words "the city limits of a city" on page 1, line 5, and inserting the words "a county" after the word "within" on page 1, line 5.

The amendment to the committee amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of the committee amendment as amended, the amendment as amended was adopted by a viva voce vote.

On motion of Senator Sims and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2564 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2564** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Rosson.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Rosson asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1206 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1206, Relating to anatomical gifts.

The bill was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Montford asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 1206 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1206** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Montford.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 756 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 756, Relating to the regulation of the practice of professional nursing.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 756 ON THIRD READING**

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 756** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE RESOLUTION 1029

Senator West offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pleasure in recognizing Danny Glover, one of the most successful black dramatic actors in the country; and

WHEREAS, A former political activist who today uses his art to promote social change, Mr. Glover is a graduate of San Francisco State University; in 1968, he helped organize a strike that prompted university officials to reverse their decision to eliminate the school's ethnic studies department; and

WHEREAS, A man of strong beliefs, generosity, and perseverance, Mr. Glover participated in a university-sponsored tutorial program for inner-city children in which he personally coordinated three reading centers; he also assisted with the Breakfast-for-Children program in the San Francisco Bay Area; and

WHEREAS, After his graduation from college he received a fellowship that enabled him to work on zoning for the City of Berkeley, and by the mid-1970s, he was evaluating school reading programs for children and parents; it was at this time that he began to take part in improvisational theatre groups and to devote his weekends to working with the Black Actors' Workshop of the American Conservatory Theatre; and

WHEREAS, While working in improvisational theatre, Mr. Glover discovered the work of the famous South African playwright Athol Fugard, whose writings had a profound effect on him; Danny Glover strongly identified with Mr. Fugard's statements on apartheid and with his views on humanity and justice; and

WHEREAS, A man of many talents, Danny Glover realized in 1977, the year he turned 30, that acting would be his vocation; he then appeared in a succession of various South African plays, surrealistic plays, and Fugard productions, receiving his first break as a professional actor when he was cast in the Yale Repertory Theatre's production of Athol Fugard's Master Harold...and the Boys; and

WHEREAS, While he was appearing at the Yale Repertory Theatre, Danny Glover was discovered by film director and screenwriter Robert Benton, an event that changed his life; Mr. Benton selected him for his character Moze in the now famous movie Places in the Heart; and

WHEREAS, Danny Glover's career was meteoric, and in 1985, he appeared in three major Hollywood films, Witness, Silverado, and The Color Purple; in 1987 he played a hardworking detective in the highly successful cop-buddy movie, Lethal Weapon; and

WHEREAS, He created one of his most memorable screen characters in Simon, the character who serves as the moral center of Lawrence Kasdan's Grand Canyon; and

WHEREAS, Throughout his career, Danny Glover has attempted to further the spirit and causes of egalitarianism and to champion human rights; he has dedicated his public and private life to condemning racism and espousing the need for unity among all people; and

WHEREAS, A remarkably gifted actor and an avid humanitarian, Danny Glover uses his superior craftsmanship as well as his community activities to manifest his own deep and compelling concern for his fellowman, and he is truly an exemplary figure for the young people of our country; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 73rd Legislature, hereby commend Danny Glover for his many endeavors to help the underprivileged, to end racism, and to further the cause of world peace and congratulate him on his successful career; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator West, the resolution was adopted by a viva voce vote.

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Danny Glover, a highly acclaimed and distinguished African-American actor.

The Senate welcomed Mr. Glover.

Senator West, joined by Senator Ellis, escorted Mr. Glover to the President's rostrum, where he was presented with an enrolled copy of S.R. 1029 and briefly addressed the Senate.

FLOOR PRIVILEGES GRANTED

On motion of Senator Ratliff and by unanimous consent, floor privileges were granted to a member of his staff during the deliberation of C.S.H.B. 1064.

COMMITTEE SUBSTITUTE HOUSE BILL 1064 ON SECOND READING

Senator Ratliff moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 1064, Relating to reducing the regulatory burden on school districts.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Parker.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 1064 (committee report) as follows:

On page 17, line 53, delete the existing language for SECTION 3.02 and substitute the following:

SECTION 3.02. Section 16.054, Education Code is amended to read as follows:

Section 16.054. ~~[STUDENT/TEACHER RATIOS;] CLASS SIZE. [(a) Except as provided by Subsection (b) of this section, each school district must employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance;].~~

~~(a) [(b)] Except as provided by Subsection (c) of this section, a [A] school [district] may not enroll more than 22 students in a kindergarten, first, second, third, or fourth grade class. This requirement shall not apply during the first [last] twelve weeks of any school year.~~

~~(b) [(c)] In determining the number of students to enroll in any class, a school [district] shall consider the subject to be taught, the teaching methodology to be used, and any need for individual instruction.~~

~~(c) [(d)] On application of a school district, the commissioner may except a school [the district] from the limits in Subsection (a) [(b)] of this section if the commissioner finds the limits work an undue hardship on the school or district. "Undue hardship" is defined as lack of adequate classroom space to accommodate unforeseen increases in enrollment, inability to secure certified teachers, and financial emergency. The waiver request must include a process to obtain campus compliance in the~~

following year and must identify campus actions to offset the waiver impact on student achievement. A school district containing a school that exceeds the class size maximum established by this section without filing for a waiver within 30 days shall lose state ADA allotment for each child in excess of the maximum class size for each day the class exceeds the maximum class size. An exception expires at the end of the school year [semester] for which it is granted; and the commissioner may not grant an exception for more than one semester at a time. The commissioner may not at any time except a school from the class size limit of 24 students under Subsection (d) of this section.

(d) A school may enroll more than 22 but never more than 24 students in a kindergarten, first, second, third, or fourth grade class;

(1) after the first 12 weeks of a school year, if necessary to avoid class reorganization; or

(2) during any 12 weeks selected by the school, if the school or district has a significant percentage of students, as defined by the commissioner of education, whose parent or guardian is a migrant worker, as defined by Section 21.5515 of this code.

(e) Not later than the 45th day after the first day of the school year, each school committee established under Section 21.931 of this code shall file a written report with the school district concerning the school's compliance with Subsection (a) of this section. Not later than the 60th day after the first day of the school year, each school district shall forward the reports to the commissioner.

(f) [e-] The commissioner shall report to the legislature each biennium regarding compliance with this section. The report must include:

(1) a statement of the number of schools and grade levels [districts] granted an exception under Subsection (c) [e-] of this section; and

(2) an estimate of the total cost incurred by school districts in that biennium in complying with this section.

The amendment was read.

Senator Haley offered the following amendment to Floor Amendment No. 3:

Floor Amendment No. 3A

Amend C.S.H.B. 1064, beginning on line 53, page 17, by striking SECTION 3.02 and substituting the following:

SECTION 3.02. Section 16.054, Education Code, is amended by amending Subsection (d) to read as follows:

(d) On application of a school district, the commissioner may except the district from the limits in Subsection (b) of this section if the commissioner finds the limits work an undue hardship on the district. The waiver request must include a process to obtain campus compliance in the following year and must identify campus actions to offset the waiver impact on student achievement. A school district that exceeds the class size maximum established by this section without filing for a waiver within 30 days shall lose state ADA allotment for each child in excess of the

maximum class size for each day the class exceeds the maximum class size. An exception expires at the end of the semester for which it is granted, and the commissioner may not grant an exception for more than one semester at a time.

The amendment to Floor Amendment No. 3 was read and was adopted by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Barrientos, Bivins, Carriker, Ellis, Haley, Harris of Dallas, Lucio, Luna, Moncrief, Montford, Ratliff, Rosson, Sibley, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Brown, Harris of Tarrant, Henderson, Leedom, Nelson, Patterson, Shapiro, Shelley, Sims, Wentworth.

Absent: Madla, Parker.

Question recurring on the adoption of Floor Amendment No. 3 as amended, the amendment as amended was adopted by a viva voce vote.

(Senator Montford in Chair)

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 1A

Amend C.S.H.B. 1064 by deleting Section 2.11 and Section 2.12.

The amendment was read and failed of adoption by the following vote: Yeas 4, Nays 27.

Yeas: Ellis, Henderson, Leedom, Parker.

Nays: Armbrister, Barrientos, Bivins, Brown, Carriker, Haley, Harris of Tarrant, Harris of Dallas, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 1064 (committee report) as follows:

On page 4, line 68, insert a new SECTION _____ and renumber subsequent sections appropriately.

SECTION _____. Section 13.051(b) is amended to read as follows:

(b) The examination[s] to which this section applies includes the examination[s] authorized in Section[s] 13.032(e) [~~and 13.316~~] of this code.

On page 17, line 21, after 12.61(a), insert 13.0321(c), 13.035(c),

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 1064 (committee report) as follows:

On page 7, line 60, insert "and each school year thereafter" before "a minimum salary equal to".

The amendment was read and was adopted by a viva voce vote.

Floor Amendment No. 3B was not offered.

Floor Amendment No. 4 was not offered.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 1064 (committee report) as follows:

On page 30, line 46, delete "or"

On page 30, line 50, delete "." and add the following:

or

(6) the person is a foreign exchange student in a nationally recognized foreign exchange program, admitted under the provisions of local district policy and placed with a host family that resides in the school district. Local school district policy shall set forth reasonable standards for the admission of foreign exchange students under this section.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 1064 (committee report) as follows:

On page 26, line 3, delete SECTION 6.11 and renumber subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.H.B. 1064 (committee report) as follows:

Delete Section 6.18, which begins on page 29, line 39, and ends on page 30, line 4, and renumber subsequent sections appropriately.

Delete Section 7.01, which begins on page 33, line 35, and ends on line 40, and renumber subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.H.B. 1064 (committee report) as follows:

(a) On page 20, line 5, strike Section 5.07 and renumber subsequent sections accordingly.

(b) On page 20, line 59, strike Section 5.09 and substitute the following:

SECTION 5.09. Subsections (c)-(i) of Section 21.174, Education Code, are amended to read as follows:

(c)(1) Except as provided in ~~[Subdivision (4) of this subsection]~~ Subsections (e) or (f), no county or local district school board may purchase or lease or authorize the purchase or lease after September 1,

~~1993~~ [1994], of any motor vehicle used for transporting school children for any county or local school district operating more than 50 such vehicles unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) A county or local school district school board may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

~~[(4) The State Purchasing and General Services Commission shall waive the requirements of this section for any school district if the county or local district school board certifies to the commission that:~~

~~[(A) the county's or district's vehicles will be operating primarily in an area in which neither the county, district, nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or~~

~~[(B) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subdivision (2) of this subsection at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied;~~

~~[(5) Written notice of the date, hour, place, and subject of any county or local district school board meeting called for the purpose of considering certification under Subdivision (4) of this subsection shall be furnished to the secretary of state, who shall then post the notice on a bulletin board to be located in the main office of the secretary of state at a place convenient to the public and shall have a notice posted on a bulletin board located at a place convenient to the public in its central administrative office. Notice of the meeting must be posted for at least 60 days preceding the scheduled time of the meeting.]~~

(d)(1) Any county or local district school board which operates a fleet of more than 50 motor vehicles used for transporting school children shall ensure [achieve the following percentages of such vehicles capable of using compressed natural gas or other alternative fuels by the times specified]:

(A) that not less than 50 percent of its fleet is capable of using compressed natural gas or other alternative fuel not later than the earlier of 4 years from the date the fleet exceeds 50 vehicles or September

~~1, 1997 [the percentage shall be equal to or greater than 30 percent of the number of such vehicles operated by September 1, 1994]; and~~

~~(B) that not less than 90 percent of its fleet is capable of using compressed natural gas or other alternative fuel not later than September 1, 2001 [equal to or greater than 50 percent of the number of such vehicles operated by September 1, 1996].~~

~~(2) School districts may meet the fleet composition requirements by converting new or existing vehicles to alternative fuel, by replacing existing vehicle engines with alternative fuel engines, or by purchasing new alternative fuel vehicles. [The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from vehicles in the area, county and local district school boards operating fleets of more than 50 motor vehicles used for transporting school children shall achieve a percentage of such vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.]~~

~~(3) School districts that achieve a fleet composition of 30 percent or more alternative fuel vehicles by September 1, 1994, shall have priority to receive appropriated or other funds available for the purpose of fleet conversion to alternative fuel. [County and local district school boards shall submit to the Central Education Agency annual reports summarizing their progress in achieving these percentage requirements and increasing use of compressed natural gas or other alternative fuels, and the Central Education Agency shall submit the summaries to the Texas Air Control Board by September 1 of each year.]~~

~~[(4) County and local district school boards, the Central Education Agency, and the State Purchasing and General Services Commission shall support the Texas Air Control Board in collecting reasonable information needed to determine air quality benefits from use of alternative fuels in affected districts.]~~

~~(e) (1) The requirements of Subsections (c) and (d) shall not apply to any school district if the county or local district school board acts in accordance with Subdivision (A), (B), or (C) of this subsection.~~

~~(A) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for service contracts for the supply of compressed natural gas or other alternative fuels that are at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. The bid solicitation provision does not require any board to solicit a bid for service contracts more than once during any fiscal year.~~

~~(B) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for conversion of engines or vehicles or replacement of engines or vehicles to compressed natural gas or other alternative fuels that are at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the engine or vehicle.~~

(C) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for a contract, which provides for conversion or replacement, or both, of engines or vehicles, or both, to compressed natural gas or other alternative fuel and for the supply of compressed natural gas or other alternative fuels, that is at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment, facilities, vehicles, and engines. The bid solicitation provision does not require a board to solicit such a bid more than once during any three-year period.

(2) A person or entity making a bid or submitting a proposal in response to a solicitation made in compliance with this subsection shall have the burden to provide the school board the information on total cost-effectiveness of the bid, including, if applicable, the cost of new warranties for vehicle or engine conversion and insurance costs.

(3) In determining total cost-effectiveness under this subsection, a board may consider both the short-term and long-term costs to the district and other objective factors that may affect the capacity of the district to use compressed natural gas or other alternative fuels. The board shall consider availability of state and federal funds for conversion and replacement purposes.

(f) The requirements of Subsections (c) and (d) shall not require any district to convert any vehicle put into service on or before September 1, 1993, to alternative fuel. The requirements of Subsections (c) and (d) shall not apply until September 1, 1995, for any district that applied for a two-year life cycle cost benefit waiver prior to September 1, 1993, if that waiver is subsequently granted. The General Services Commission shall expedite the process on all such waiver applications. [The State Purchasing and General Services Commission may reduce any percentage specified or waive the requirements of Subsection (d) of this section for any county or district on receipt of certification supported by evidence acceptable to the commission that:

[(1) the county or district's vehicles will be operating primarily in an area in which neither the county, district, nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

[(2) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subdivision (3) of Subsection (c) of this section at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied;]

(g) County and local district school boards and the [State Purchasing and] General Services Commission in purchasing, leasing, maintaining, or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies. The requirements of Subsections (c)

and (d) shall not require a district to convert any vehicle or engine to compressed natural gas or other alternative fuel if the conversion does not meet fuel system integrity standards as designed and tested by the National Highway Transportation Safety Administration or the Texas Railroad Commission.

(h) In this section, a vehicle is considered to be capable of using compressed natural gas or other alternative fuels if the vehicle is capable of using compressed natural gas or other alternative fuels either in its original equipment engine or in an engine that has been converted to use compressed natural gas or other alternative fuels after September 1, 1991; ~~unless the time for compliance is extended pursuant to Subsection (i) of this section].~~

~~[(i) The General Services Commission may extend the date by which a vehicle powered by a traditional gasoline or diesel engine shall be capable of using compressed natural gas or other alternative fuels as required under this section for one or more periods of 90 days, but not beyond September 1, 1993, if it finds a lack of ability to acquire such vehicles with original alternative fuels equipment, to acquire such vehicles which are able to be converted, or to convert such vehicles to use compressed natural gas or other alternative fuels.]~~

(c) On page 22, line 48, strike Section 5.10.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTES

Senators Moncrief and Montford asked to be recorded as "Present-not voting" on the adoption of the amendment.

Senator Shelley offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.H.B. 1064 by adding the appropriately numbered sections to read as follows and renumber subsequent sections accordingly.

SECTION ____ . Section 21.032(a), Education Code, is amended to read as follows:

(a) Unless specifically exempted by Section 21.033 of this code or under other laws unless a child ~~[is at least 17 years of age and]~~ has graduated from high school or has been issued a high school equivalency certificate, every child in the state who is as much as six years of age, or who is less than seven years of age and has previously been enrolled in first grade, and who has not completed the academic year in which his 17th birthday occurred shall be required to attend the public schools in the district of his residence or in some other district to which he may be transferred as provided or authorized by law a minimum of 170 days of the regular school term of the district in which the child resides or to which he has been transferred.

SECTION ____ . Subchapter B, Chapter 21, Education Code, is amended by adding Sections 21.0321 and 21.0322 to read as follows:

Sec. 21.0321. OPTION TO ATTEND FIRST GRADE. A child who will attain the age of six years after September 1 but before January 1 of

a regular school year may, upon approval of the board of trustees, be enrolled in the first grade for that school year on the written request of the child's parent or person standing in parental relation to the child to the board of trustees of the school district in which the child is enrolled.

Sec. 21.0322. OPTION TO ATTEND KINDERGARTEN. A child who will attain the age of five years after September 1 but before January 1 of a regular school year may, upon approval of the board of trustees, be enrolled in kindergarten for that school year on the written request of the child's parent or person standing in parental relation to the child to the board of trustees of the school district in which the child is enrolled.

The amendment was read and was adopted by a viva voce vote.

Senator Haley offered the following amendment to the bill:

Floor Amendment No. 10

Amend C.S.H.B. 1064 as follows:

(1) Beginning on page 15, line 49, strike Subchapter I and Subchapter J in their entirety.

(2) On page 10, strike lines 37 through 47 (being Subsections (c) and (b) in their entirety).

The amendment was read and was adopted by a viva voce vote.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 10A

Amend SECTION 2.10, C.S.H.B. 1064 as follows:

SECTION 2.10. Section 16.052, Education Code, is amended to read as follows:

Sec. 16.052. OPERATION OF SCHOOLS; TEACHER PREPARATION AND STAFF DEVELOPMENT. (a) Each school district must provide for not less than 180 days of instruction for students and not less than three days of preparation for teachers for each school year, except as provided in Subsection (c) of this section.

(b) Each school district must provide for not less than 20 hours of staff development training ~~[under guidelines provided by the commissioner of education. The training provided must include technology training and must occur during regular hours of required teacher service].~~ The staff development must be predominantly campus-based, for the purpose of improving student achievement, and planned with the involvement of the campus school committee established under Section 21.931 of this code. Campus staff development may include activities that enable the campus staff to plan together, to enhance existing skills, to share effective strategies, to reflect on curricular and instructional issues, to analyze student achievement results, to reflect on means of increasing student achievement, to study research, to practice new methods, to identify students' strengths and needs, to develop meaningful programs for students, to appropriately implement site-based decision making, and to conduct action research. Staff development activities may include study teams, individual research, peer coaching, workshops, seminars, conferences, and

other reasonable staff development activities that have the potential to improve student achievement. On the request of a teacher, a school district may credit the teacher compensatory time to be applied toward the number of training hours required under this subsection for workshops, conferences, or other professional training that the teacher has attended.

(c) The commissioner of education may approve the operation of schools for less than the number of days of instruction and teacher preparation otherwise required when disasters, floods, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of the school.

~~[(d) Each school district may reserve three hours of the first preparation day provided each school year under Subsection (a) of this section for faculty staff meetings.]~~

The amendment was read and was adopted by a viva voce vote.

Senator Henderson offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.H.B. 1064 as follows:

On page ____, line ____ add new Sections 2.25-2.32 as follows:

SECTION 2.25. Chapter 13, Education Code, is amended by adding Subchapter H to read as follows:

**SUBCHAPTER H. HEARINGS BEFORE
INDEPENDENT HEARING EXAMINERS**

Sec. 13.551. APPLICABILITY. This subchapter applies only to a school district whose board of trustees has adopted a written policy providing for hearings under Subchapter C of this chapter or Subchapter G, Chapter 21, of this code to be held before an independent hearing examiner.

Sec. 13.552. CERTIFICATION OF HEARING EXAMINERS. (a) The State Board of Education by rule shall establish criteria for certification as an independent hearing examiner eligible to conduct hearings requested under Subchapter C of this chapter or Subchapter G, Chapter 21, of this code.

(b) The commissioner of education shall certify independent hearing examiners according to the criteria established by the board. An individual certified by the commissioner may not be a current or former agent, representative, or employee of a school district, school employee organization, or a school board organization.

(c) Certification under this section must be renewed annually.

(d) The commissioner shall provide certified independent hearing examiners periodic training in the performance of their duties.

Sec. 13.553. ASSIGNMENT OF HEARING EXAMINER. (a) Not later than the fifth day after the date a board of trustees receives a request for a hearing, the board shall send a written request to the commissioner of education for the assignment of a hearing examiner.

(b) The commissioner shall adopt a procedure for the random assignment of a hearing examiner from a list of the individuals certified by the commissioner under Section 13.552 of this code. The commissioner

shall assign a hearing examiner not later than the third day after the date the commissioner receives a request under Subsection (a) of this section.

Sec. 13.554. SCHEDULING OF HEARING. A hearing examiner assigned under Section 13.553 of this code shall schedule a hearing by agreement of the parties if possible. The hearing may not be unreasonably delayed and must be held before the proposed action may take effect.

Sec. 13.555. DISCOVERY. A hearing examiner shall provide the parties a reasonable opportunity for prehearing discovery in the form of interrogatories, requests for the production of documents, requests for admissions, and depositions, according to rules adopted by the commissioner of education.

Sec. 13.556. POWERS OF HEARING EXAMINER. A hearing examiner may:

(1) issue subpoenas for the attendance of witnesses and the production of documents at a deposition or at the hearing;

(2) administer oaths; and

(3) make rulings on motions and the admissibility of evidence.

Sec. 13.557. CONDUCT OF HEARING. (a) A hearing under this subchapter must be public unless the teacher requests in writing that it be private.

(b) A hearing is not subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) At a hearing, the teacher has the right to:

(1) be represented by counsel employed by the teacher;

(2) hear the evidence on which the charges are based;

(3) cross-examine all adverse witnesses; and

(4) present evidence.

(d) The Texas Rules of Civil Evidence apply at a hearing. A hearing shall be reported by a certified court reporter.

(e) At the hearing, the school district has the burden of proof by a preponderance of the evidence.

(f) The hearing and any depositions shall be held within the geographical boundaries of the school district or at the regional educational service center that serves the district.

Sec. 13.558. RECOMMENDATION OF HEARING EXAMINER. (a) Not later than the 20th day following the date on which a hearing concludes, the hearing examiner shall make a written recommendation that includes findings of fact and conclusions of law.

(b) The hearing examiner shall send a copy of the recommendation to the teacher, the president of the board of trustees, and the commissioner of education.

Sec. 13.559. COST OF HEARING. A school district shall bear the cost of the services of the hearing examiner at rates established by the commissioner of education. A school district shall bear the cost of the services of the court reporter, except as provided by Section 13.566 of this code.

Sec. 13.560. REPLACEMENT OF HEARING EXAMINER. If a hearing examiner is unable to continue presiding over a case at any time before issuing a recommendation, the commissioner shall appoint another

hearing examiner who, after reviewing the record, shall perform any remaining functions without the necessity of repeating any previous proceedings.

Sec. 13.561. DECISION OF BOARD OF TRUSTEES. (a) A board of trustees shall schedule a board meeting not earlier than the seventh day after the date the hearing officer's recommendation is sent to the parties.

(b) At the meeting, the board shall consider the hearing examiner's recommendation and shall allow each party to present an oral argument to the board. The amount of time allowed for oral argument may be limited by written policy of the board.

(c) Following oral argument, the board may:

(1) accept the recommendation of the hearing examiner; or

(2) reject and modify the recommendation of the independent hearing examiner.

(d) The oral argument and the announced decision of the board of trustees shall be recorded by a certified court reporter. The school district shall bear the cost of the services of the court reporter, except as provided by Section 13.566 of this code.

Sec. 13.562. APPEAL TO COMMISSIONER. (a) Not later than the 20th day after the date of the decision of the board under Section 13.561, a party may appeal the decision to the commissioner of education by filing a petition for review.

(b) The commissioner shall review the record of the hearing before the independent hearing officer and oral argument before the board of trustees and, on the motion of a party or on the commissioner's own motion, may hear oral argument.

(c) The proceedings before the commissioner are not subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) The commissioner may seek the counsel of the chief legal officer of the Central Education Agency concerning legal matters if the chief legal officer has not had any involvement in the proceeding.

Sec. 13.563. STANDARD OF REVIEW. The commissioner of education shall review the findings of fact of the independent hearing officer to determine if the findings of fact are supported by substantial evidence. The commissioner shall review the conclusions of law adopted by the board of trustees to determine if the conclusions of law are arbitrary or capricious.

Sec. 13.564. HEARING BEFORE COMMISSIONER. (a) If a party alleges that procedural irregularities occurred at the hearing before the independent hearing examiner that are not reflected in the local record, the commissioner of education shall hold a hearing for the presentation of evidence on that issue.

(b) The hearing shall be recorded by a certified court reporter.

Sec. 13.565. DETERMINATION BY COMMISSIONER. (a) If the commissioner of education determines that the findings of fact are not supported by substantial evidence or that the conclusions of law adopted by the board of trustees are arbitrary or capricious, the commissioner as appropriate shall:

(1) order that the teacher be reinstated and that the teacher be paid back pay for the period of time from the nonrenewal or termination until reinstatement; or

(2) enter an order permitting the school district to discharge, suspend, or release the teacher.

(b) The commissioner's decision must be in writing and must include findings of fact and conclusions of law. The commissioner may adopt by reference and incorporation findings of fact or conclusions of law from the local record.

(c) The commissioner shall send a copy of the decision to each party or the party's representative by certified mail. The commissioner shall keep a record of the mailing. A party is presumed to be notified of the decision on the date the decision is received.

(d) The commissioner shall maintain and index decisions of the commissioner rendered under this section and the corresponding recommendations of the independent hearing examiner.

(e) Instead of reinstating a teacher under Subsection (a)(1) of this section, a school district may pay the teacher one year's salary.

Sec. 13.566. COSTS ON APPEAL. (a) The party appealing a decision of the board of trustees under Section 13.561 of this code shall bear the cost of preparing the original transcript of the hearing before the independent hearing examiner and the oral argument before the board of trustees.

(b) Each party shall bear the cost of any copies of the transcript requested by that party.

(c) The successful party to an appeal is entitled to recover from the adverse parties all costs incurred in the appeal, including the costs of transcription of the local record and of the hearing before the commissioner if an appeal is not taken from the commissioner's order.

Sec. 13.567. EX PARTE COMMUNICATION PROHIBITED. The commissioner of education may not communicate with any party or party representative in connection with any issue of fact or law except on notice and opportunity for each party to participate.

Sec. 13.568. JUDICIAL APPEAL. (a) A party may appeal a decision of the commissioner of education under Section 13.565 of this code to the court of appeals for the Third Court of Appeals District.

(b) An appeal under this section must be perfected not later than the 30th day after the date the party received notice of the decision of the commissioner. A motion for rehearing is not required for the party to appeal.

(c) The commissioner and each party to the appeal to the commissioner shall be made parties to the appeal under this section.

(d) The perfection of an appeal under this section does not affect the enforcement of the decision by the commissioner.

(e) At the conclusion of judicial review, all costs, including the costs of the transcription of the local record and of the hearing before the commissioner, shall be paid by the unsuccessful party.

SECTION 2.26. Section 11.13, Education Code, is amended by adding Subsection (d) to read as follows:

(d) Subsection (c) of this section does not apply to an appeal from a decision of the commissioner of education under Section 13.565 of this code.

SECTION 2.27. Section 13.112(a), Education Code, is amended to read as follows:

(a) If, upon written notification of the proposed action, the teacher desires to contest the same, he shall notify the board of trustees in writing within 10 days after the date of receipt by him of the official notice above prescribed, of his desire to be heard, and he shall be given a public hearing if he wishes or if the board of trustees determines that a public hearing is necessary in the public interest. The board may adopt a written policy providing for all hearings requested under this subsection to be held before an independent hearing examiner under Subchapter H of this chapter. If the board does not adopt such a policy, the hearing shall be held before the board according to this section.

SECTION 2.28. Section 13.114, Education Code, is amended to read as follows:

Sec. 13.114. DECISION OF BOARD. If the teacher upon notification of any such proposed action fails to request a hearing within 10 days thereafter, or after a hearing before the board as hereinabove provided, the board of trustees shall take such action and shall enter such order as it deems lawful and appropriate. If the teacher is reinstated, he shall immediately be paid any compensation withheld during any period of suspension without pay. No order adverse to the teacher shall be entered except upon majority vote of the full membership of the board of trustees.

SECTION 2.29. Section 13.115, Education Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not apply to an appeal under Subchapter H of this chapter.

SECTION 2.30. Sections 21.202 and 21.205, Education Code, are amended to read as follows:

Sec. 21.202. TEACHER EVALUATIONS. The board of trustees of each school district shall provide by written policy for the periodic written evaluation of each teacher in its employ at annual or more frequent intervals. Such evaluation shall be considered by a hearing examiner who conducts a hearing under Subchapter H, Chapter 13, of this code or by the board of trustees prior to any recommendation or decision [by the board] not to renew the term contract of any teacher.

Sec. 21.205. HEARING. (a) If the teacher desires a hearing after receiving notice of the proposed nonrenewal, the teacher shall notify the board of trustees in writing within 10 days after receiving the notice of nonrenewal. The board may adopt a written policy providing for all hearings requested under this subsection to be held before an independent hearing examiner under Subchapter H, Chapter 13, of this code. If the board does not adopt such a policy, the hearing shall be held according to this section.

(b) The board shall provide for a hearing to be held within 15 days after receiving written notice from the teacher requesting a hearing. Such hearing shall be closed unless an open hearing is requested by the employee.

~~(c) [(b)]~~ The hearing shall be conducted in accordance with rules promulgated by the district. The board of trustees may designate a person to serve as an impartial hearing officer to develop a record for consideration by the board. The board shall make its decision based on a review of the record developed by the impartial hearing officer and on oral argument before the board of the teacher or the teacher's representative and the district's representative.

SECTION 2.31. Section 21.206(b), Education Code, is amended to read as follows:

(b) If a hearing is held under Section 21.205 of this code ~~[the teacher requests a hearing]~~, the board shall take such action as it deems lawful and appropriate and shall notify the teacher in writing of that action within 15 days following the conclusion of the hearing.

SECTION 2.32. Section 21.207, Education Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to an appeal under Subchapter H, Chapter 13, of this code.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.H.B. 1064 as follows:

Insert a new appropriately numbered section to read as follows, and renumber remaining sections accordingly:

SECTION _____. Section 21.031(c)(6), Education Code, is amended to read as follows:

(6) such person and either parent demonstrate the intention to reside within the school district by purchasing unimproved residential real estate within the school district and declaring their intention to begin construction on a residence on such property within the following nine months.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ratliff and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1064 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1064 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Parker.

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1217 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 1217, Relating to the regulation of tattoo parlors; providing a criminal penalty.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Carriker, Ellis, Haley, Leedom.

The bill was read second time.

Senator Rosson offered the following amendment to the bill:

Amend **C.S.H.B. 1217** as follows:

On page 2, line 48, strike "; or".

On page 2, lines 49 and 50, strike all of Subsection (2) except the period.

The amendment was read and failed of adoption by the following vote: Yeas 10, Nays 17.

Yeas: Barrientos, Carriker, Lucio, Luna, Madla, Moncrief, Parker, Rosson, Sims, Turner.

Nays: Armbrister, Bivins, Brown, Ellis, Harris of Tarrant, Harris of Dallas, Henderson, Montford, Nelson, Patterson, Ratliff, Shapiro, Shelley, Sibley, Truan, West, Zaffirini.

Absent: Haley, Leedom, Wentworth, Whitmire.

The bill was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1217 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1217** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1878 ON SECOND READING

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1878, Relating to the issuance of general obligation bonds by the Texas Agricultural Finance Authority and to the authority's efforts to support minority-owned and women-owned businesses.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1878 ON THIRD READING

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1878** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 2714 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2714, Relating to the provision of water and sewer service to annexed areas of certain municipalities.

The bill was read second time.

Senator Whitmire offered the following committee amendment to the bill:

Committee Amendment

Amend **H.B. 2714** in Section 2 of the bill by striking added Sections 43.0565(c), (d), (e), and (f), Local Government Code (page 5, lines 8-24, house engrossment).

The committee amendment was read and was adopted by a viva voce vote.

Senator Rosson offered the following amendment to the bill:

Floor Amendment

Amend **H.B. 2714** by adding a new Section 3 and renumbering subsequent sections as appropriate.

SECTION 3. Chapter 402, Local Government Code, is amended by adding Section 402.004 to read as follows:

Section 402.004. REGIONAL PLANNING AND MANAGEMENT

(a) This section applies to municipalities with a population in excess of 400,000 according to the most recent federal census and which borders on the Republic of Mexico where the municipality had transferred by ordinance the operation and management of its water and waste water system to an independent board of trustees under Article 1115, Revised Civil Statutes of Texas.

(b) All such municipalities shall, in addition to all other powers set forth in this chapter, have the powers enumerated below and are authorized to enact enabling resolutions and ordinances which delegate to such board of trustees or their governing bodies the power to develop a service plan to:

- 1) provide water or wastewater service in the unincorporated areas of the county in which the municipality is located;
- 2) act as the regional planning entity for water and wastewater service;
- 3) plan for regional drought and water supply management;
- 4) promote conservation planning, education and research of surface water and ground water resources; and
- 5) accomplish any other related regional utility purpose, including seeking financing of water and waste water infrastructure, especially in economically distressed areas.

(c) Nothing herein shall be construed to permit such municipalities to serve the customers of other retail water and wastewater utilities without the consent of such utilities or as otherwise provided by law.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2714 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2714** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

RECESS

On motion of Senator Harris of Dallas, the Senate at 12:56 p.m. took recess until 2:15 p.m. today.

AFTER RECESS

The Senate met at 2:15 p.m. and was called to order by the President.

SENATE BILL 13 WITH HOUSE AMENDMENT

Senator Brown called S.B. 13 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 13 by adding on page 2, lines 4 and 5, between the words "years" and "of" the following:

"or an individual over sixty-four years"

The amendment was read.

Senator Brown moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 13 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Whitmire, Lucio, Sibley, and Nelson.

BILLS AND RESOLUTION SIGNED

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

H.B. 23	H.B. 1122	H.B. 2103
H.B. 70	H.B. 1123	H.B. 2109
H.B. 76	H.B. 1135	H.B. 2125
H.B. 116	H.B. 1212	H.B. 2218
H.B. 162	H.B. 1345	H.B. 2270
H.B. 272	H.B. 1356	H.B. 2297
H.B. 285	H.B. 1431	H.B. 2385
H.B. 362	H.B. 1598	H.B. 2429
H.B. 372	H.B. 1684	H.B. 2512
H.B. 537	H.B. 1745	H.B. 2585
H.B. 610	H.B. 1852	H.B. 2634
H.B. 616	H.B. 1899	H.B. 2647
H.B. 670	H.B. 1933	H.B. 2677
H.B. 687	H.B. 1942	H.B. 2723
H.B. 709	H.B. 1948	H.B. 2800
H.B. 740	H.B. 2009	H.B. 2821
H.B. 1091	H.B. 2042	H.B. 2826
H.B. 1108	H.B. 2052	H.C.R. 142

HOUSE BILL 546 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 546, Relating to an emergency order to protect a child.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend H.B. 546 as follows:

On page 1, line 11, delete "or another child"

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 546 as follows:

On page 1, line 11, delete "or another person"

The amendment was read and was adopted by a viva voce vote.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 546 by adding a new SECTION 2. and renumbering the subsequent sections accordingly.

SECTION 2. Chapter 15, Family Code, is amended by adding Section 15.025 to read as follows:

Sec. 15.025. INVOLUNTARY TERMINATION; FAILURE TO CARE FOR CHILD. A petition by the Texas Department of Protective and Regulatory Services requesting termination of the parent-child relationship with respect to a parent who is not the petitioner may be granted if the court finds by clear and convincing evidence that:

(1) the department has been the temporary or permanent managing conservator of the child for one year preceding the filing of the petition, or there is a past history of court determinations of abuse or neglect by the parent which led to one or more foster care placements of the child; and

(2)(A) the parent has failed substantially, without good cause, to comply with court orders designed to require the parent to provide a safe environment for the child in the parent's home; or

(B) the parent has failed substantially, without good cause, to comply with a service plan ordered by the court designed to correct the conditions necessitating out-of-home care of the child; and

(3) despite the services or assistance reasonably made available to the parent, in all reasonable probability, the child will not be integrated into the home of the parent in the foreseeable future due to conduct of the parent or the conditions of the parent's home; and

(4) the termination is in the best interest of the child.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 546 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 546 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

VOTES RECONSIDERED

On motion of Senator Ellis and by unanimous consent, the vote by which **H.B. 546** was finally passed was reconsidered.

Question—Shall **H.B. 546** be finally passed?

On motion of Senator Ellis and by unanimous consent, the vote by which the Three-Day Rule on **H.B. 546** was suspended was reconsidered.

Question—Shall the Three-Day Rule be suspended?

On motion of Senator Ellis and by unanimous consent, the vote by which **H.B. 546** was passed to third reading was reconsidered.

Question—Shall the bill be passed to third reading?

On motion of Senator Ellis and by unanimous consent, the vote by which Committee Amendment No. 1 to **H.B. 546** was adopted was reconsidered.

Question—Shall the amendment be adopted?

On the motion of Senator Ellis, Committee Amendment No. 1 was again adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

The bill as amended was again passed to third reading by a viva voce vote.

HOUSE BILL 546 ON THIRD READING

Senator Ellis again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 546** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was again read third time and was passed by a viva voce vote.

FLOOR PRIVILEGES GRANTED

On motion of Senator Parker and by unanimous consent, floor privileges were granted to his staff and to the staff of Senator Harris of Dallas during the deliberation of **C.S.H.B. 1461**.

COMMITTEE SUBSTITUTE

HOUSE BILL 1461 ON SECOND READING

Senator Parker moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 1461, Relating to insurance regulation and to the continuation, powers and duties of the Texas Department of Insurance and

the office of public insurance counsel; providing administrative penalties; making an appropriation.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time.

(Senator Montford in Chair)

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 1461 as follows:

On page 7, line 14, delete "explicitly"

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 1461 as follows:

Amend SECTION 1.05 on page 16 by striking lines 2-14.

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.H.B. 1461 as follows:

On page 35, insert "reasonable" before "actual" on line 2 and line 3.

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 1461, SECTION 1.08, page 28, line 16, by deleting the current Article 1.24D and replacing it with the following:

Article 1.24D. CONFIDENTIALITY OF UNDERWRITING GUIDELINES. (a) The department or the office of public insurance counsel may request and receive copies of an insurer's underwriting guidelines. Underwriting guidelines obtained by the department under this subsection are confidential and the department or the office of public insurance counsel may not make the guidelines available to the public, provided, however, that the department or the office of public insurance counsel may disclose a summary of the underwriting guidelines in a manner that does not directly or indirectly identify the insurer who provided the guidelines.

(b) This law does not preclude the use of underwriting guidelines as evidence to prosecute a violation of this code. If guidelines are used to prosecute a violation of the law, all copies of those guidelines shall be presumed confidential and subject to a protective order until all appeals on the case have been exhausted. After the exhaustion of all appeals, if an insurer is found to have violated this code, the copies of the underwriting guidelines that were used as evidence of the violation shall no longer be presumed confidential.

(c) When such guidelines are furnished to the department or the office of public insurance counsel, only those persons within the department or the office of public insurance counsel with a need to know will have access to such guidelines. The department and the office of public insurance counsel shall establish internal control systems to limit such access and keep a record thereof.

(d) Violations of the provisions of this article shall be considered as violation of the Open Records Act, TEX. REV. CIV. STAT. ANN. Art. 6252-17a (Vernon Supp. 1993).

The amendment was read and failed of adoption by the following vote: Yeas 11, Nays 12, Present-not voting 1.

Yeas: Armbrister, Carriker, Ellis, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Shapiro, Shelley, Sims, Wentworth.

Present-not voting: Montford.

Absent: Barrientos, Haley, Lucio, Luna, Ratliff, Sibley, Whitmire.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 1461, Section 1.08, page 28, line 16, by deleting Article 1.24D.

The amendment was read.

On motion of Senator Ellis and by unanimous consent, the amendment was withdrawn.

VOTES TO RECONSIDER AND TABLE

Senator Henderson moved to reconsider and table the vote by which Floor Amendment No. 4 failed of adoption.

The motion to reconsider and table the vote by which Floor Amendment No. 4 failed of adoption was lost by the following vote: Yeas 12, Nays 13, Present-not voting 1.

Yeas: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Shapiro, Shelley, Sims, Wentworth.

Nays: Armbrister, Barrientos, Carriker, Ellis, Luna, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Zaffirini.

Present-not voting: Montford.

Absent: Haley, Lucio, Ratliff, Sibley, Whitmire.

Senator Ellis then moved to reconsider the vote by which Floor Amendment No. 4 failed of adoption. The motion to reconsider prevailed by the following vote: Yeas 16, Nays 14, Present-not voting 1.

Yeas: Armbrister, Barrientos, Carriker, Ellis, Haley, Lucio, Luna, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims, Wentworth.

Present-not voting: Montford.

Question—Shall Floor Amendment No. 4 be adopted?

Floor Amendment No. 4 was adopted by the following vote: Yeas 16, Nays 14, Present-not voting 1.

Yeas: Armbrister, Barrientos, Carriker, Ellis, Haley, Lucio, Luna, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims, Wentworth.

Present-not voting: Montford.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 20

Amend C.S.H.B. 1461 on page 120, line 10, by adding the following language after the word "hearing":

"A trade association that does not collect historical data and that does not provide statistical plans, prospective loss costs, or supplementary rating information to its members may, on behalf of its members that are small or medium-sized insurers, as defined by the commissioner, present rate making data and make recommendations to the board at the hearing."

The amendment was read.

Senator Parker offered the following amendment to Floor Amendment No. 20:

Floor Amendment No. 20A

Amend Floor Amendment No. 20 to C.S.H.B. 1461 by adding the following sentence to the end:

"This does not permit a trade association to present testimony on or make recommendations for final rates, profits, expenses other than loss adjustment expenses, or prospective loss costs."

The amendment was read.

On motion of Senator Parker and by unanimous consent, Floor Amendment No. 20A was withdrawn.

On motion of Senator Shapiro and by unanimous consent, Floor Amendment No. 20 was temporarily withdrawn.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 1461 as follows:

(1) On page 45, line 4, after the word "counsel," insert the following phrase: "staff employee of a member of the former State Board of Insurance."

(2) On page 45, line 21, after the word "counsel", insert the following phrase: "or staff employee of a member of the former State Board of Insurance"

(3) On page 45, line 20, after the word "counsel" delete the word "or".

(4) On page 106, line 18, between "\$25,000" and "." insert the phrase "per day".

(5) On page 125, line 15, delete "board" and replace with "commissioner"

(6) On page 147, line 24, insert the phrase "unless controverted" between "opinion" and ".".

(7) On page 356, line 19, after the end of the sentence, add the following sentence: "For the purposes of this article, the term also includes any nonincorporated insurer organized under the laws of any foreign country in a form recognized by the department."

(8) On page 357, line 4, between the words "to" and "transact," add the following phrase "be licensed to".

(9) On page 361, line 4, strike the word "state" and substitute the following phrase: "policyholders of the alien insurance corporation within the United States".

The amendment was read.

On motion of Senator Parker and by unanimous consent, Floor Amendment No. 6 was withdrawn.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 6A

Amend C.S.H.B. 1461 as follows:

(1) On page 45, line 4, after the word "counsel," insert the following phrase: "staff employee of a member of the former State Board of Insurance."

(2) On page 45, line 21, after the word "counsel" insert the following phrase: "staff employee of a member of the former State Board of Insurance"

(3) On page 45, line 20, after the word "counsel" delete the word "or"

(4) On page 125, line 15, delete the word "board" and replace with the word "commissioner"

(5) On page 147, line 24, insert the phrase "unless controverted" between "opinion" and ".".

(6) On page 356, line 19, after the end of the sentence, add the following sentence: "for the purposes of this article, the term also includes any nonincorporated insurer organized under the laws of any foreign country in a form recognized by the department."

(7) On page 357, line 4, between the words "to" and "transact" add the phrase "be licensed to"

(8) On page 361, line 4, delete the word "state" and substitute the following phrase: "policyholders of the alien insurer corporation within the United States"

(9) On page 402, line 11, between the words "receive" and "certification" add the word "accreditation"

The amendment was read and was adopted by a viva voce vote.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.H.B. 1461 as follows:

On page 65, line 24, after the word "mutuals" and before the word "are", insert the following:

"local mutual aid associations and burial associations"

The amendment was read and was adopted by a viva voce vote.

Senator Henderson offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.H.B. 1461 by adding Sections 8.22 through 8.25 to read as follows:

SECTION 8.22. Article 1.24A, Insurance Code, is hereby repealed.

SECTION 8.23. Article 5.58A, Insurance Code, is hereby repealed.

SECTION 8.24. Amend Article 1.24B, Section 5, as follows:

Sec. 5. (a) The State Board of Insurance may promulgate necessary rules to carry out this article, to define terminology, criteria, content, and other matters relating to the reports, and to designate other types or lines of liability insurance required to provide information under this article and may prescribe the form and content of the closed claim reports and summary claims reports to be filed.

(b) In lieu of requiring insurers to file the reports required by Sec. 2, the State Board of Insurance may, following notice and public hearing, provide for alternative reporting in the form of sampling of the required closed claim data.

SECTION 8.25. Amend Article 1.24B, Section 6, by adding Subsection (d) as follows:

(d) The Board may establish an electronic data base composed of reports filed with the Board, provide the public with access to that data, establish a system to provide access by electronic data transmittal processes to that data, set and charge a fee for electronic access to the data base in an amount reasonable and necessary to cover the costs of access.

The amendment was read and was adopted by a viva voce vote.

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.H.B. 1461 as follows:

1. Strike SECTION 9.22 of the bill (page 212, lines 14-19) and substitute the following:

SECTION 9.22. Article 21.28-C, Insurance Code, is amended by adding Section 24 to read as follows:

Sec. 24. EMPLOYMENT OF CERTAIN INDIVIDUALS. The association may not employ or contract with an individual required to register with the Texas Ethics Commission under Section 305.003, Government Code, to communicate directly with a member of the legislative branch to influence legislation.

2. Strike SECTION 9.25 of the bill (page 213, lines 16-18) in its entirety.

The amendment was read.

On motion of Senator Harris of Dallas and by unanimous consent, the amendment was withdrawn.

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 9A

Amend C.S.H.B. 1461 as follows:

- (1) Strike SECTION 9.22 of the bill (page 212, lines 14-19).
- (2) Strike SECTION 9.25 of the bill (page 213, lines 16-18).

The amendment was read and was adopted by a viva voce vote.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 10

Amend C.S.H.B. 1461 as follows:

- (1) On page 292, line 9, strike "shall" and insert in its place "may".

The amendment was read and failed of adoption by the following vote:
Yeas 10, Nays 17, Present-not voting 1.

Yeas: Barrientos, Carriker, Ellis, Moncrief, Parker, Rosson, Truan, Turner, West, Zaffirini.

Nays: Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Madla, Nelson, Patterson, Shapiro, Shelley, Sibley, Sims, Wentworth.

Present-not voting: Montford.

Absent: Luna, Ratliff, Whitmire.

Floor Amendment No. 11 was not offered.

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 11A

Amend C.S.H.B. 1461, SECTION 20.16 on page 395, line 17, by deleting Subsection (c) and substituting new Subsections (c) and (d) as follows, and relettering subsequent sections accordingly:

(c) No policy of mortgage guaranty insurance shall contain a provision which allows subrogation rights or any other claim by the insurer against the borrower for a deficiency arising from a foreclosure sale of a single-family dwelling occupied by the borrower as the principal residence of the borrower.

The commissioner ~~board~~ shall disapprove any form if:

(1) It is in any respect in violation of or does not comply with this code[-] or rules adopted by the commissioner.

(2) It contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading, deceptive, or contrary to law or to the public policy of this state.

(d) The commissioner may, after notice and hearing, adopt reasonable rules relating to the minimum standards for coverage under such policy forms consistent with the purpose of this article and the public policy of this state.

The amendment was read and was adopted by a viva voce vote.

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.H.B. 1461 as follows:

(1) On page 403, line 19, add a new SECTION 20.24 to read as follows:

SECTION 20.24: Section 1: Amend Sec. 4.04, Article 5.76-2, Insurance Code, by adding a new Subsection (q) to read as follows:

"(q) The pass through allowances authorized in Subsections (d) and (e) hereof shall be deemed exclusive subsequent to the effective date of this article, but other methods utilized prior to such effective date shall be deemed valid if consistent with the purpose of this article and if the premium resulting from their use is less than the premium which would have been charged for a similarly rated risk in the Rejected Risk Fund."

Section 2. The validation made by this amendment shall govern any civil or regulatory proceeding except a civil proceeding pending in a court of competent jurisdiction on May 1, 1993.

The amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 13

Amend Section 21.01 of C.S.H.B. 1461, page 409, line 4, by substituting the following Section 5 of Article 1.35A in lieu of the Section 5 appearing therein:

"Sec. 5. POWERS AND DUTIES. (a) ~~(g)~~ The office of public insurance counsel may assess the impact of insurance rates, rules, and forms on insurance consumers in Texas and, in its own name, shall act as an advocate of positions that are most advantageous to a substantial number of insurance consumers as determined by the public counsel for the office.

(b) ~~(h)~~ The public counsel:

(1) may appear or intervene as a matter of right before the commissioner or department ~~[State Board of Insurance]~~ as a party or otherwise on behalf of insurance consumers as a class in:

(A) matters involving rates, rules, and forms affecting property and casualty insurance;

(B) matters involving rates, rules, and forms affecting title insurance;

(C) matters involving rules affecting life, health, and accident insurance;

(D) matters involving rates, rules, and forms affecting credit life, and credit accident and health insurance;

(E) matters involving rates, rules, and forms affecting all other lines of insurance for which the commissioner or department ~~[State Board of Insurance]~~ promulgates, sets, or approves rates, rules, and/or forms; and

(F) matters involving withdrawal of approval of policy form in proceedings initiated by the department under Articles 3.42(f) and 3.42(g) of this code or if the public counsel presents persuasive evidence to the department ~~[determines]~~ that such forms do not comply with such articles of this code or any valid rule relating thereto duly adopted by the commissioner ~~[State Board of Insurance]~~ or are ~~[is]~~ otherwise contrary to law;

(2) may initiate or intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising out of any action taken by an administrative agency in a proceeding in which the public counsel previously appeared under the authority granted by this article;

(3) is entitled to access to any records of the department that are available to any party other than the department ~~[board's]~~ staff in a proceeding before the commissioner or department ~~[board]~~ under the authority granted public counsel by this article;

(4) is entitled to obtain discovery under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) of any nonprivileged matter that is relevant to the subject matter involved in a [any] proceeding or submission before the commissioner or department as authorized by this article ~~[State Board of Insurance]~~;

(5) may recommend legislation to the legislature that, in the judgment of the public counsel, would affect positively the interests of insurance consumers;

(6) may appear or intervene as a matter of right as a party or otherwise on behalf of insurance consumers as a class in all proceeding in which the public counsel determines that insurance consumers need representation, except that the public counsel may not intervene in any enforcement or parens patriae proceeding brought by the attorney general; ~~[and]~~

(7) may appear or intervene before the commissioner or department as a party or otherwise on behalf of small commercial insurance consumers, as a class, in matters involving rates, rules, and forms affecting commercial insurance consumers, as a class, in all proceedings where it is deemed by the counsel that small commercial consumers are in need of representation; and

(8) shall submit to the department for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the department ~~[board]~~ to be distributed upon the issuance of a policy by insurers to each policyholder under rules adopted by the department.

(c) ~~[(+)]~~ The public counsel may not intervene or appear in any proceedings or hearings before the ~~[board or]~~ commissioner or department, or other proceedings, that relate to approval or consideration of individual charters, licenses, acquisitions, mergers, ~~[or]~~ examinations, proceedings, concerning the solvency of individual insurers ~~[after a receiver is appointed], financial issues, policy forms, advertising, or other regulatory~~

issues ~~[or other matters]~~ affecting individual insurers ~~[insurer]~~ or agents ~~[agent licenses]~~. The confidentiality requirements applicable to examination reports under Article 1.18 of this code and to the commissioner under Section 3A, Article 21.28, of this code shall apply to the public counsel.

(d) ~~[(j)]~~ Any order of the commissioner ~~[board]~~ which determines, approves, or sets a rate under this code and is appealed shall be and remain in effect during the pendency of an appeal. During the pendency of the appeal, an insurer shall use the rate provided in the order being appealed. Such rate shall be lawful and valid during such appeal, and an insurer shall not be required to make any refund therefrom after a decision on the appeal. If a decision on appeal shall vacate the order, the rate established by the commissioner ~~[board]~~ prior to the rendition of the vacated order shall be in effect from and after the date of remand and until the commissioner ~~[board]~~ shall make a further determination; however, the commissioner ~~[board]~~ shall consider the order of the court in setting future rates.

PARKER
HARRIS OF DALLAS

The amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 14

Amend C.S.H.B. 1461 as follows:

On page 120, between lines 17 and 18, insert the following new Section 6.05 and new Section 6.06 and renumber the subsequent sections accordingly:

SECTION 6.05. Section 5, Article 5.73, Insurance Code, is amended to read as follows:

Sec. 5. (a) The authority granted under this article expires ~~[September 1, 1993]~~ September 1, 1994.

(b) On the effective date of this article, the commissioner shall appoint a task force to assist in the technical aspects of an orderly transition toward the implementation of this article. The task force shall consist of:

(1) three representatives of Texas-domestic property and casualty insurers;

(2) three representatives of non-domestic property and casualty insurers with substantial business in this state; and

(3) three other property and casualty insurers.

(c) The task force shall meet no less than monthly and deliver to the commissioner a detailed plan for the completion of the transition on or before January 1, 1994.

SECTION 6.06. Article 21.69, Insurance Code, is amended to read as follows:

Art. 21.69. ~~[Board May Contract for Premium and Loss Data]~~ Parallel Statistical Data Collection

(a) Except as provided in Article 5.58 of this code, the ~~[board may contract with any qualified entity to collect historical premium and loss~~

~~data as defined by the board and pursuant to statistical plans promulgated or approved by the board.] commissioner shall contract with one statistical entity for each line of insurance to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the commissioner. A statistical entity designated by the commissioner must provide sufficient evidence of five years of experience in data collection, data maintenance, data quality control, accounting and related areas.~~

~~(b) An insurer may continue to provide historical premium and loss data to a statistical agent designated by the board prior to April 1, 1993, as required by a statistical plan in use at that time.~~

~~(c) As used in this article, "historical premium and loss data" excludes profit data, trended data, developed data, trend factors, development factors, and expenses other than loss adjustment expenses.~~

~~(d) The Select Committee on Rate and Form Regulation created under Article 1.50 of this code shall appoint an independent consulting firm to evaluate the costs and benefits of each of the systems and include in its report to the Legislature a recommendation for future data collection consistent with its recommendations on rates.~~

The amendment was read.

Senator Harris of Dallas moved to table Floor Amendment No. 14.

The motion to table was lost by the following vote: Yeas 14, Nays 15, Present-not voting 1.

Yeas: Armbrister, Brown, Haley, Harris of Dallas, Henderson, Leedom, Madla, Nelson, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims.

Nays: Barrientos, Bivins, Carriker, Ellis, Harris of Tarrant, Luna, Moncrief, Parker, Rosson, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Present-not voting: Montford.

Absent: Lucio.

Question—Shall Floor Amendment No. 14 be adopted?

Floor Amendment No. 14A was not offered.

Senator Harris of Dallas offered the following amendment to Floor Amendment No 14.

Floor Amendment No. 14A1

Amend Floor Amendment No. 14 to C.S.H.B. 1461 as follows:

(1) On page 149, line 22, add a new SECTION 7.06A, and substitute the following:

SECTION 7.06A. Section 5, Article 5.73, Insurance Code, is amended to read as follows:

Sec. 5. The State Auditor shall evaluate the capability of the Texas Department of Insurance to provide the products and services authorized for advisory organizations under Section 1 of this article. The State Auditor shall engage the services of a qualified actuarial consulting firm to assist in this evaluation. Such evaluation shall be completed by December 31, 1994, and shall be sent to the governor, lieutenant governor,

and speaker of the house. The legislature shall review the results of this report to determine whether the insurance department shall provide such products and services or whether advisory organizations shall continue to provide the products and services authorized under Section 1 or this article. An advisory organization may not:

(1) engage in price-fixing or other anticompetitive activity prohibited by federal or state law;

(2) attempt to monopolize or conspire with any other person to monopolize an insurance market;

(3) make an agreement with any other insurer, advisory organization, or other person if the agreement has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance; or

(4) compile or distribute recommendations for rates or for profit and expenses other than loss adjustment expenses.

The authority granted under this article expires September 1, 1997 ~~[1993]~~.

The amendment was read.

Senator Parker moved to table Floor Amendment No. 14A1. The motion to table was lost by the following vote: Yeas 14, Nays 16, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Carriker, Ellis, Luna, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Brown, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Madla, Nelson, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims, Wentworth.

Present-not voting: Montford.

Question recurring on the adoption of Floor Amendment No. 14A1, the amendment to the amendment was adopted by the following vote: Yeas 16, Nays 13, Present-not voting 1.

Yeas: Brown, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Madla, Nelson, Patterson, Ratliff, Shapiro, Shelley, Sibley, Sims, Wentworth.

Nays: Armbrister, Barrientos, Bivins, Carriker, Ellis, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Present-not voting: Montford.

Absent: Luna.

Senator Harris of Dallas offered the following amendment to Floor Amendment No. 14:

Floor Amendment No. 14B

Amend Floor Amendment No. 14 to C.S.H.B. 1461 to read as follows:

(1) On page 117, between lines 4 and 5, insert a new paragraph 4 to Section 3(a) of Article 1.50 as follows:

(4) the role of statistical agents in providing the services described in Article 21.69.

(2) On page 174, between line 17 and 18, add a new SECTION 7.12 to read as follows:

SECTION 7.12. Article 21.69, Insurance Code, is amended to read as follows:

Art. 21.69. Board May Contract for Premium and Loss Data

Except as provided in Article 5.58 of this code ~~the Board or Commissioner shall designate only one statistical agent, per line of insurance, for the purpose of collecting statistical data for that line of insurance. In determining the appointment of an agent for a given line of insurance, the Board or Commissioner shall consider each of and only the following criteria:~~

~~(1) the statistical agent must have been collecting statistical data in that line for at least 5 years;~~

~~(2) the percentage of the total premium volume in that line of insurance currently collected by that agent; and~~

~~(3) the results of any audit(s) of that statistical agent conducted within the past 5 years.~~

~~Any appointed statistical agent shall be allowed to collect data under the statistical plans and rules in use on April 1, 1993. The Board or Commissioner shall not adopt or promulgate new statistical plans until the Legislature has had an opportunity to receive and act on the report of the select committee on rate and policy form regulation created by Section 7.02 of this act, but no sooner than the last day of the regular session of the 75th Texas Legislature. [the board may contract with any qualified entity to collect historical premium and loss data as defined by the board and pursuant to statistical plans promulgated or approved by the board.]~~

The amendment was read.

Question—Shall Floor Amendment No. 14B be adopted?

(President in Chair)

Senator Parker requested a confirmation of the vote on Floor Amendment No. 14A1.

(Senator Montford in Chair)

The vote on Floor Amendment No. 14A1 was confirmed by the following vote: Yeas 16, Nays 13, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Nelson, Patterson, Ratliff, Shelley, Sibley, Sims, Wentworth.

Nays: Barrientos, Carriker, Ellis, Luna, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Present-not voting: Montford.

Absent: Shapiro.

Question—Shall Floor Amendment No. 14B be adopted?

Floor Amendment No. 14B failed of adoption by the following vote:
Yeas 14, Nays 15, Present-not voting 1.

Yeas: Armbrister, Brown, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Ratliff, Shelley, Sibley, Sims, Wentworth.

Nays: Barrientos, Bivins, Carriker, Ellis, Lucio, Luna, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Present-not voting: Montford.

Absent: Shapiro.

Question recurring on the adoption of Floor Amendment No. 14 as amended, the amendment as amended was adopted by the following vote:
Yeas 18, Nays 11, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Nelson, Patterson, Ratliff, Shelley, Sibley, Sims, Wentworth.

Nays: Barrientos, Carriker, Ellis, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Present-not voting: Montford.

Absent: Shapiro.

(President in Chair)

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 15

Amend C.S.H.B. 1461 by adding the following appropriately numbered section and by renumbering the remaining sections of the bill as appropriate:

SECTION ____ Article 21.52, Insurance Code, is amended by adding Section 3A to read as follows:

Sec. 3A. PROVISION OF PHYSICAL MODALITIES AND PROCEDURES.

(a) A health insurer or licensed third party administrator may not deny reimbursement to a practitioner for the provision of covered services of physical modalities and procedures that are within the scope of such practitioner's practice provided such services are performed in strict conformity with applicable laws and regulations relating to the licensure of the practitioner and with the terms of the insurance policy or other coverage agreement.

(b) A health maintenance organization or preferred provider organization may not deny reimbursement to a participating practitioner for services provided pursuant to a coverage agreement solely because of the type of practitioner who provided such services as long as the services are

performed in strict conformity with applicable laws and regulations relating to the licensure of the practitioner and with the terms of the insurance policy or other coverage agreement.

The amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 19

Amend C.S.H.B. 1461 as follows:

1. On page 35, line 8 between "(d)" and "The", insert "Upon the direction of the Lieutenant Governor and the Speaker of the House"
2. On page 35, line 8 strike "T" in "The" and replace with "t"

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 16

Amend C.S.H.B. 1461 as follows:

SECTION 1. Art. 3.51-6, Sec. 1(a)(1) of the Texas Insurance Code is amended as follows:

"Sec. 1. (a) Group accident and health insurance is hereby defined to be that form of accident, sickness, or accident and sickness insurance covering groups of persons as provided in Subdivisions (1) through (6) below:

(1) under a policy issued to an employer or trustee of a fund established by an employer, who shall be deemed the policyholder, insuring employees of such employer for the benefit of persons other than the employer; except as hereinafter provided. The term "employees" as used herein shall be deemed to include the officers, managers, and employees of the employer, the individual proprietor, or partner if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners, and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract or otherwise, and retired employees. A policy is issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officials. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;"

SECTION 2. Amend Art. 3.51-6, Texas Insurance Code, by adding a new Section 2A to read as follows:

GROUP OR BLANKET ACCIDENT AND/OR HEALTH INSURANCE USED TO FUND AN EMPLOYER'S DEDUCTIBLE UNDER A POLICY OF WORKERS' COMPENSATION INSURANCE

SECTION 2A (a) Group or blanket accident and health insurance specifically purchased by an employer to fund a portion of the deductible under a policy of workers' compensation insurance hereby defined to be that form of accident, sickness, or accident and sickness insurance, that

provides benefits solely for occupational accident and/or sickness and that is issued to the employer for the benefit of the employer. Such policy may be issued to benefit the employer only under the following conditions:

1. The policyholder shall be the employer;
2. The premium for the policy shall be paid solely by the policyholder and no part of the premium shall in any way be paid by the employees of the policyholder or employer;
3. The benefits of the policy shall be payable upon proof by the employer that the workers' compensation carrier has paid compensation benefits to or on behalf of an injured and/or ill employee or employees under the workers' compensation policy within or in excess of the deductible of the employer's workers' compensation policy;
4. Benefits payable under the policy shall be payable to the workers' compensation carrier or employer at the direction of the employer, except as provided in Section 2A (a) 5 below;
5. The policy shall provide for payment of any benefits over and above the amount payable under the workers' compensation insurance deductible be paid to the employee or to his designated beneficiary or beneficiaries or to his estate as provided in Section 3 of this Article;
6. The fact that the employer has or has not purchased a group or blanket accident and health policy to fund a part of the workers' compensation policy deductible shall in no way affect the right or ability of an employee to receive workers' compensation benefits or in any way change the requirements of an employee to receive or be entitled to workers' compensation benefits as they become due;
7. If a controversy arises regarding the liability of a group or blanket accident and health insurer as the result of payment of benefits by the workers' compensation carrier to or on behalf of an employee, the employee shall not be required by any party or other person or entity including a court to submit to any type of medical, physical or psychological examination or testing nor shall the employee be required to provide any testimony or evidence regarding the controversy. Any violation of this requirement by any party or other person or entity shall subject them to liability for all reasonable damages occasioned by their actions. It is the intent of this Section that the employee not be required to become involved in any way by any party, court or other person in controversies regarding the payment or non-payment of benefits by the group or blanket accident and health insurer that will be used to fund the employer's workers' compensation insurance deductible;
8. The front of the policy form shall state the following in at least 10 point bold type:

"IMPORTANT NOTICE TO THE PURCHASER OF THIS POLICY:

(1) This policy contains limitations and exclusions and may provide coverage different from the benefits payable under the workers' compensation laws of this state and which are subject to a deductible; therefore, this policy does not provide dollar-for-dollar reimbursement of

the employer's liability for payment of all sums due under the deductible provision of the workers' compensation insurance policy.

(2) The employer is liable to the workers' compensation insurance carrier for the payment of all sums due under the deductible provision of the workers' compensation insurance policy and not payable under this policy.

(3) The premium for this policy shall be paid solely by the policyholder and no part of the premium shall in any way be paid by the employees of the policyholder or employer.

(4) The employer or any other party to a dispute regarding the liability of the group or blanket accident and health insurance carrier under this policy may not require an employee to whom or on whose behalf workers' compensation benefits were paid to submit to further medical, physical, or psychological examination or testing to resolve the dispute, nor to provide evidence or testimony regarding a dispute under this policy."; and

9. The policy must clearly in plain language describe:

(A) the coverage and limitations in the policy; and

(B) the difference between the coverage offered by the policy and the benefits payable under the workers' compensation laws of this state which are subject to the employers' deductible pursuant to the workers' compensation laws of this state which are subject to the employer's deductible pursuant to the workers' compensation insurance policy.

(b) The notice and disclosure required in Subsection (a) of this section must be provided to the employer prior to purchase of the group or blanket accident and health insurance policy under this section.

(c) The insurer shall not be required to obtain an individual application for such coverage from a person covered under the policy or contract; however disclosure of the terms of the plan shall be provided to each employee.

(d) The insurer shall not be required to furnish a certificate of coverage to each person insured under the employer's policy or contract. Any affected employee shall be entitled to any payment by the insurer under the group or blanket accident and health insurance policy in excess of the deductible paid by the employer under the workers' compensation policy of insurance. The insurer making a payment excess of the deductible paid by an employer under a policy of workers' compensation policy of insurance shall notify the employee in writing of such payment and provide notice to the employee of the procedure to receive such excess payment.

(e) The insurer may not limit coverage applicable to a specific employee and may not exclude any employee from coverage under a group or blanket accident and health policy used to fund an employer's workers' compensation insurance deductible. The insurer may not issue group or blanket accident and health coverage in a discriminatory manner and the group or blanket accident and health policy used to fund the workers' compensation deductible must cover all employees covered under the employer's workers' compensation policy of insurance.

(f) To the extent that these provisions are more specific than other provisions of Article 3.51-6, this section shall govern; otherwise all other provisions of Article 3.51-6 shall be applicable.

SECTION 3. Amend Art. 5.55C of the Texas Insurance Code to read as follows:

"Art. 5.55C Optional Deductible Plans

(a) The Board shall require each company or association that writes workers' compensation insurance in this state to offer optional deductible plans to ~~[allow]~~ policyholders, ~~[to self-insure for the deductible amount.]~~

(b) No later than January 1, 1992, the Board shall promulgate at least three plans with varying deductible options. In addition, the Board by rule shall permit an employer to enter into an agreement with an insurer for a negotiated deductible in excess of the largest promulgated deductible.

(c) The Board shall perform an actuarial analysis to determine the amount of rate reduction applicable to policies under this article as opposed to standard policies without a deductible. In subsequent years, the Board shall determine the amount of rate reduction according to rating procedures adopted by the Board. When establishing procedures for the calculation of experience modifiers, the Board may allow the exclusion of the claim amount paid under the deductible by the employer.

(d) A deductible policy must provide that the company or association will make all payments for benefits that are payable from the deductible amount and that reimbursement by the policyholder shall be made periodically, rather than at the time claim costs are incurred. The State Board of Insurance shall promulgate rules that provide for adequate security for reimbursement of the amount paid by the company or association which is payable from the deductible.

(e) The company or association shall service all claims that arise during the policy period, including those claims payable, in whole or in part, from the deductible amount.

(f) A person who is employed by a policyholder who self-insures the deductible amount as provided under this article may not be required to pay any of the deductible amount.

(g)(1) A person who is employed by a policyholder who ~~[self-insures the]~~ carries a deductible ~~[amount]~~ as provided under this article may not be harassed, discharged, or otherwise discriminated against because the employee, in good faith:

(A) is considering initiating a workers' compensation claim;

(B) has initiated a workers' compensation claim;

(C) has retained a representative to represent the employee regarding the claim;

(D) has testified or is about to testify at an administrative or judicial proceeding under the Texas Workers' Compensation Act (S.B. 1, Acts of the 71st Legislature, 2nd Called Session, 1989)¹;

(E) has reported a hazardous working condition or hazardous practice to the commission; or

¹ Vernon's Ann.Civ.St. art. 8308-1.01 et seq.

(F) has taken any other action or is considering taking any other action that may result in the policyholder being required to pay a deductible amount through the self-insurance plan.

(2) Liability for damages for violations of Article 5.55c(g)(1)(A), (B), (C), and (D) shall be determined as provided in Article 8307c, Vernon's Texas Civil Statutes and all other violations of this Article shall be determined exclusively pursuant to the Texas Workers' Compensation Act Article 8308-1.01 et seq. Vernon's Texas Civil Statutes.

(h)(1) Nothing in this Article 5.55C or Article 3.51-6 of the Texas Insurance Code shall curtail or limit any existing law or rule relative to confidentiality of employees medical records, medical treatment, or medical history, provided, however, that with the express written consent of an employee, an entity issuing an insurance policy solely to fund a portion of the deductible under a workers' compensation insurance policy shall be given access to only that information necessary to process and evaluate any claim presented for payment pursuant to that policy. Any such information received shall be treated as strictly confidential by the issuing entity.

(2) The penalties and remedies set out in Article 8308-2.37 of the Texas Workers' Compensation Act shall apply to this section.

(3) In addition to the provisions of Subsection (h)(2) above, any individual aggrieved by any failure to maintain confidentiality shall have a private cause of action, in which compensatory and exemplary damages, as well as an injunctive relief shall be recoverable.

~~[(h)]~~ (i) Any person who engages in conduct prohibited under this article commits a Class A administrative violation under the Texas Workers' Compensation Act (S.B. 1, Acts of the 71st Legislature, 2nd Called Session, 1989)² Acts 1989, 71st Leg., 2nd C.S., ch. 1, Sec. 13.08, eff. Jan. 1, 1991.

The amendment was read.

Senator Wentworth offered the following amendment to Floor Amendment No. 16:

Floor Amendment No. 16A

Amend Floor Amendment No. 16 to C.S.H.B. 1461 as follows:

(a) Strike lines 11-12 in Section 3 on page 7 and insert the following: "offer optional deductible plans to allow policyholders to either self-insure for the deductible amount or carry a deductible."

(b) Strike lines 15-16 in Section 3 on page 8 and insert the following:

"(g)(1) A person who is employed by a policyholder who self-insures or carries a deductible ~~[amount]~~ as provided under"

The amendment to Floor Amendment No. 16 was read and was adopted by the following vote: Yeas 13, Nays 11, Present-not voting 1.

Yeas: Bivins, Brown, Carriker, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Shelley, Sims, Turner, Wentworth.

Nays: Armbrister, Barrientos, Ellis, Madla, Moncrief, Parker, Rosson, Truan, West, Whitmire, Zaffirini.

² Vernon's Ann.Civ.St. art. 8308-10.22

Present-not voting: Montford.

Absent: Haley, Lucio, Luna, Ratliff, Shapiro, Sibley.

Question recurring on the adoption of Floor Amendment No. 16 as amended, the amendment as amended failed of adoption by the following vote: Yeas 12, Nays 12, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Shelley, Sims, Wentworth.

Nays: Barrientos, Carriker, Ellis, Madla, Moncrief, Parker, Rosson, Truan, Turner, West, Whitmire, Zaffirini.

Present-not voting: Montford.

Absent: Haley, Lucio, Luna, Ratliff, Shapiro, Sibley.

(Senator Armbrister in Chair)

Senator Harris of Tarrant offered the following amendment to the bill:

Floor Amendment No. 17

Amend C.S.H.B. 1461 on page 121, line 27, after the word "property" by inserting the words "all commercial casualty,"

On page 122, line 20, after the word "property" by inserting the words "all commercial casualty,"

On page 127, line 21, by adding a new SECTION 6.10 to read as follows:

SECTION 6.10 Section 8. Article 5.13-2 is amended by adding a new (f) to read as follows:

(f) Policy forms for use with large risks are exempt from the requirements of Subsections (a), (b) and (c) of this section. For purposes of this subsection, "large risk" means:

(1) an insured that has total insured property values of \$10 million or more;

(2) an insured that has total annual gross revenues of \$20 million or more; or

(3) an insured that has a total premium of \$50,000 or more for property insurance, \$50,000 or more for general liability insurance, or \$100,000 or more for multiperil insurance.

Renumber all subsequent sections.

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 18

Amend proposed C.S.H.B. 1461 as follows:

(1) Add new Sections 20.06 and 20.07 (page 381, between lines 9 and 10), to read as follows:

SECTION 20.06. Section 4, Article 4.10, Insurance Code, is amended to read as follows:

Sec. 4. INAPPLICABILITY OF ARTICLE. (a) Except as provided by Subsection (b) of this section, this [This] article shall not apply to purely

cooperative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property and not for profit.

(b) This article applies to crop insurance premiums only written by a farm mutual insurance company on or after January 1, 1994.

SECTION 20.07. Chapter 16, Insurance Code, is amended by adding Article 16.24A to read as follows:

Art. 16.24A. LICENSING OF AGENTS FOR CROP INSURANCE. (a) No person or firm shall solicit, write, sign, execute or deliver insurance policies, bind insurance risks, collect premiums, or otherwise act in the capacity of a local recording agent in the solicitation or sale of crop insurance for a farm mutual insurance company unless the person or firm is licensed under Article 21.14. of this code.

(b) A farm mutual insurance company may not appoint and act through an agent who qualifies for a license as an agricultural insurance agent under Article 21.14-2, Insurance Code.

(2) Renumber the sections of Article 20 of the bill following new Sections 20.06 and 20.07 accordingly.

(3) In renumbered Section 20.25 of the bill, add a new Subsection (d) (page 403, between lines 18 and 19) to read as follows:

(d) The change in law made by Section 20.06 of this article to Section 4, Article 4.10, Insurance Code, applies only to crop insurance premiums written by a farm mutual insurance company on or after January 1, 1994 and the current law shall otherwise continue in effect.

(e) The change in law made by Section 20.07 of this article applies only to an agent selling crop insurance for a farm mutual insurance company and the current law shall otherwise continue in effect.

WENTWORTH
BIVINS

The amendment was read and was adopted by a viva voce vote.

(President in Chair)

Senator Parker, on behalf of Senator Shapiro, again offered the following amendment to the bill:

Floor Amendment No. 20

Amend C.S.H.B. 1461 on page 120, line 10, by adding the following language after the word "hearing":

"A trade association that does not collect historical data and that does not provide statistical plans, prospective loss costs, or supplementary rating information to its members may, on behalf of its members that are small or medium-sized insurers, as defined by the commissioner, present rate making data and make recommendations to the board at the hearing."

The amendment was again read.

Senator Parker offered the following amendment to Floor Amendment No. 20:

Floor Amendment No. 20B

Amend Floor Amendment No. 20 to C.S.H.B. 1461 by adding the following sentence at the end:

"There is no immunity from antitrust liability for a trade association that presents rate making data or makes recommendations to the board at the hearing."

The amendment to Floor Amendment No. 20 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 20 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 21

Amend C.S.H.B. 1461 as follows:

On page 40, lines 14 through 18, delete "provided that, notwithstanding any other provision of this code, any interested party may require that such proceeding be conducted under the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)."

The amendment was read and was adopted by a viva voce vote.

Floor Amendment No. 22 was not offered.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 23

Amend C.S.H.B. 1461 by adding a new SECTION ____ to read as follows and by renumbering remaining sections accordingly:

SECTION ____. Subchapter C, Chapter 281, Health and Safety Code is amended by adding Section 281.0515 to read as follows:

Sec. 281.0515. PROCEDURES FOR HEALTH MAINTENANCE ORGANIZATION. A district may establish a health maintenance organization in accordance with the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) to provide or arrange for health care services for the residents of the district.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Barrientos.

Senator Barrientos moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Members, Lavaca-Navidad River Authority Board of Directors: CAROL T. McDONALD, Jackson County; CALLAWAY S. VANCE, Jackson County; ROBERT J. WHITWORTH, Jackson County.

**SENATE RULE 11.11 SUSPENDED
(Posting Rule)**

On motion of Senator Moncrief and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might meet tomorrow.

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Henderson and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Jurisprudence might consider the following bills today:

H.B. 293
H.B. 2831
H.B. 1095

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Sims and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Natural Resources might consider the following bills today:

H.B. 2866
H.B. 2817
H.B. 2874
H.B. 852

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills today:

H.B. 2500
H.B. 1469

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Brown and by unanimous consent, Senate Rule 11.19 was suspended in order that the Subcommittee on Criminal Justice might consider the following bills tomorrow:

H.B. 697
H.B. 1088

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Criminal Justice might consider the following bills tomorrow:

**H.B. 1508
H.B. 2761
H.B. 862
H.B. 2766
H.B. 665
H.B. 605**

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 991**

Senator Harris of Dallas submitted the following Conference Committee Report:

Austin, Texas
May 6, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 991** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS OF DALLAS	STILES
HENDERSON	HIGHTOWER
CARRIKER	CAMPBELL
SHELLEY	JONES
PATTERSON	CAIN
On the part of the Senate	On the part of the House

The conference committee report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 405**

Senator Carriker submitted the following Conference Committee Report:

Austin, Texas
May 24, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 405 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CARRIKER	SMITH
RATLIFF	SMITHEE
ROSSON	OLIVEIRA
ELLIS	RAYMOND
HARRIS OF DALLAS	SHIELDS
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the continuation of the Texas Department of Commerce.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.003, Government Code, is amended to read as follows:

Sec. 481.003. SUNSET PROVISION. The Texas Department of Commerce is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2001 [~~1993~~].

SECTION 2. Section 481.004, Government Code, is amended by adding Subsection (e) to read as follows:

(e) At least one member of the policy board must be a resident of a county with a population of less than 30,000.

SECTION 3. Section 481.0041(a), Government Code, is amended to read as follows:

(a) It is a ground for removal from the policy board if a member:

(1) does not have at the time of appointment the qualifications required by Section 481.0042;

(2) does not maintain during service on the policy board the qualifications required by Section 481.0042;

(3) violates a prohibition established by Section 481.0042;

(4) [~~2~~] cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) [~~3~~] is absent from more than half of the regularly scheduled policy board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the policy board.

SECTION 4. Section 481.0042, Government Code, is amended to read as follows:

Sec. 481.0042. CONFLICT OF INTEREST. (a) A person may not serve as a public member of the policy board or be the executive director or an employee of the department if the person:

(1) is employed by, participates in the management of, or is a paid consultant of a business entity that contracts with the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for employee salaries and benefits or for policy board membership, attendance, and expenses; or

(4) is an officer, employee, or paid consultant of a trade association of businesses that contracts with the department.

(b) A person may not serve as a public member of the policy board or be the executive director or an employee of the department if the person's spouse:

(1) participates in the management of or is a paid consultant of a business entity that contracts with the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department; or

(4) is an officer, manager, or paid consultant of a trade association of businesses that contracts with the department.

(c) [A member of the policy board or the executive director or an employee of the department may not:

[(1) be an officer, employee, or paid consultant of a business entity that contracts with the department;

[(2) directly own, control, or have any interest in a business entity that contracts with the department; or

[(3) accept or solicit any gift, favor, or service that would reasonably tend to influence the person in the discharge of official duties or that the person knows or should know is being offered with the intent to influence official conduct.

[(b) An officer, employee, or paid consultant of a business entity or a trade association of business entities that contracts with the department may not be a member of the policy board or the executive director or employee of the department.

[(c) A person who is the spouse of an officer, manager, or paid consultant of a business entity or a trade association of business entities that contracts with the department may not be a member of the policy board or the executive director or an employee of the department.

[(d)] For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or

profession in dealing with mutual business or professional problems and in promoting their common interest.

(d) For the purposes of this section, a business entity is a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized in law through which business for profit is conducted.

(e) A person may not be a member of the policy board or the executive director or an employee of the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a business entity that has an interest in a contract with the department or a profession related to the operation of the department.

SECTION 5. Section 481.0044(a), Government Code, is amended to read as follows:

(a) The policy board ~~shall~~ [may] adopt rules necessary for the administration of department programs and may adopt rules for its internal management and control.

SECTION 6. Section 481.005(d), Government Code, is amended to read as follows:

(d) The members of the policy board shall establish policy, adopt rules ~~[that the policy board may adopt under law]~~, evaluate the implementation of new legislation that affects the department's duties, review and comment on the department's budget, prepare an annual report of the department's activities, conduct investigations and studies, and develop long-range plans for the future goals and needs of the department. The members of the policy board may not be involved in the daily operation of the department. Except for duties related to the approval and issuance of bonds by the department, the policy board may delegate to the executive director the duties of the policy board under this chapter and other law that are not covered by the description of the members' duties under this subsection.

SECTION 7. Sections 481.010(a), (f), and (g), Government Code, are amended to read as follows:

(a) The executive director shall employ personnel necessary for the performance of department functions. In addition to other personnel, the executive director shall employ a human rights officer and an internal auditor. The internal auditor shall report directly to the policy board and may consult with the executive director or the executive director's designee ~~[the governor]~~.

(f) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability ~~[handicap]~~, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of the Commission on Human Rights;

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant ~~underuse~~ [underutilization] in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant ~~underuse~~ [underutilization].

(g) A policy statement prepared under Subsection (f) must cover an annual period, be updated ~~[at least]~~ annually and reviewed by the Commission on Human Rights for compliance with Subsection (f)(1), and be filed with the governor's office.

SECTION 8. Section 481.011, Government Code, is amended to read as follows:

Sec. 481.011. FISCAL REPORT. The ~~executive director~~ [department] shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

SECTION 9. Section 481.012, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The ~~policy board~~ [department] shall prepare and maintain a written plan that describes how a person who does not speak English ~~[or who has a physical, mental, or developmental disability]~~ can be provided reasonable access to the department's programs. The policy board shall also comply with federal and state laws for program and facility accessibility.

(d) The policy board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

SECTION 10. Section 481.021, Government Code, is amended to read as follows:

Sec. 481.021. GENERAL POWERS OF DEPARTMENT. (a) The department may:

- (1) adopt and enforce rules necessary to carry out this chapter;
- (2) adopt and use an official seal;
- (3) accept gifts, grants, or loans from and contract with any entity;
- (4) sue and be sued;
- (5) acquire and convey property or an interest in property;
- (6) procure insurance and pay premiums on insurance of any type, in accounts, and from insurers as the department considers necessary and advisable to accomplish any of the department's purposes; ~~[and]~~
- (7) hold patents, copyrights, trademarks, or other evidence of protection or exclusivity issued under the laws of the United States, any state, or any nation and may enter into license agreements with any third parties for the receipt of fees, royalties, or other monetary or nonmonetary value;

(8) sell advertisements in any medium; and

(9) exercise any other power necessary to carry out this chapter.

(b) Except as otherwise provided by this chapter, money paid to the department under this chapter shall be deposited in the state treasury.

(c) The department shall deposit contributions from private sources in a separate fund kept and held in escrow and in trust by the state treasurer for and on behalf of the department as funds held outside the treasury under Section 404.073, and the money contributed shall be used to carry out the purposes of the department and, to the extent possible, the purposes specified by the donors. The state treasurer may invest and reinvest the money, pending its use, in the fund in investments authorized by law for state funds that the state treasurer considers appropriate.

SECTION 11. Section 481.027(c), Government Code, is amended to read as follows:

(c) The department shall maintain regional offices in locations specified in the General Appropriations Act ~~[maintain at least one regional office in Europe, at least one regional office in the Pacific Rim area, and at least one regional office in Mexico. Each regional office may have one or more satellite offices].~~

SECTION 12. Subchapter B, Chapter 481, Government Code, is amended by adding Section 481.028 to read as follows:

Sec. 481.028. MEMORANDUM OF UNDERSTANDING WITH OTHER STATE AGENCIES. (a) The department shall initiate negotiations for and enter into a memorandum of understanding with any other state agency involved in economic development to cooperate in program planning and budgeting.

(b) The department shall enter into an agreement as required by Subsection (a) with the:

(1) Department of Agriculture regarding each agency's international marketing efforts and business finance programs;

(2) Texas Employment Commission, Texas Higher Education Coordinating Board, and Central Education Agency regarding each agency's work force development efforts and literacy programs;

(3) General Land Office regarding each agency's rural economic development efforts;

(4) Texas Department of Housing and Community Affairs regarding each agency's community development programs;

(5) Texas Department of Transportation and Parks and Wildlife Department regarding each agency's efforts to promote tourism;

(6) Texas Air Control Board regarding small business finance and permits;

(7) office of the state comptroller regarding economic development and analyses;

(8) Texas Historical Commission regarding community preservation, restoration, and revitalization;

(9) Texas Department of Human Services regarding work force development;

(10) General Services Commission regarding providing procurement information, certification, and technical assistance to small and historically underutilized businesses;

(11) Alternative Fuels Council if that council is created by S.B. 737, Acts of the 73rd Legislature, Regular Session, 1993, regarding the promotion of alternative fuels;

(12) institutions of higher education regarding work force development, literacy, and technology transfer; and

(13) Texas Water Commission regarding the marketing of recyclable products and business permits.

(c) Each agency listed in Subsection (b) may enter into memoranda of understanding in areas other than those listed for the respective agency.

(d) The memorandum of understanding between the department and the other state agency shall be adopted as a rule of each department or agency.

SECTION 13. Subchapter B, Chapter 481, Government Code, is amended by adding Section 481.029 to read as follows:

Sec. 481.029. COST RECOVERY. The department shall recover the cost of providing direct technical assistance and management training services to businesses and communities when reasonable and practical.

SECTION 14. Sections 481.050(a) and (b), Government Code, are amended to read as follows:

(a) A member of the policy board, the executive director, or an agent or employee of the department, in the person's own name or in the name of a nominee, may not hold an ownership interest of more than the following amount in an association, trust, corporation, partnership, or other entity that is, in its own name or in the name of a nominee, a party to a contract or agreement under this ~~chapter~~ subchapter on which the member of the policy board, executive director, agent, or employee may be called on to act or vote:

- (1) 7-1/2 percent of the fair market value of the entity; or
- (2) \$50,000.

(b) With respect to a direct or indirect interest, other than an interest prohibited by Subsection (a), in a contract or agreement under this ~~chapter~~ subchapter on which the member of the policy board, executive director, agent, or employee may be called on to act or vote, the member of the policy board, executive director, agent, or employee shall disclose the interest to the secretary of the department before the department takes final action concerning the contract or agreement and shall disclose the nature and extent of the interest and the person's acquisition of it. The department shall publicly acknowledge this disclosure and enter it in its minutes. A member of the policy board, executive director, agent, or employee who holds such an interest may not be officially involved in regard to the contract or agreement, may not vote on a matter relating to the contract or agreement, and may not communicate with the executive director or other members, agents, or employees concerning the contract or agreement. Notwithstanding any other provision of law, a contract or agreement entered into in conformity with this subsection is not invalid because of an interest described by this subsection nor is a person who complies with this subsection guilty of an offense, and the person may not be removed from office or be subjected to other penalty because of the interest.

SECTION 15. Subchapter F, Chapter 481, Government Code, is amended by adding Section 481.0831 to read as follows:

Sec. 481.0831. OFFICE OF RURAL AFFAIRS. (a) The department shall maintain an office of rural affairs.

(b) The office shall:

(1) implement the programs established under this subchapter; and
(2) address the special needs of rural communities and businesses
and assist those communities and businesses.

SECTION 16. Section 481.084(a), Government Code, is amended to read as follows:

(a) The department ~~may [shall use money in the fund to]~~ guarantee not more than 90 percent of a loan made by a private lender or to make loans to fund a project. For each guarantee the department shall determine:

(1) that the project is located in a rural area;

(2) the amount of equity the user must pledge or apply to the establishment of the project;

(3) the fees charged by the department, including guarantee or loan fees, application fees, annual fees, and any other costs associated with the loan guarantee or loan, as necessary to fund the administration of this subchapter;

(4) the maximum and minimum guarantee or loan amounts, if applicable;

(5) the permissible interest rates and amortization requirements for a guaranteed loan or loan, as agreed on by the private lender, the user, and the department;

(6) the acceptable security for the department's participation in a project; and

(7) any other terms or conditions relating to a guarantee or loan.

SECTION 17. Subchapter F, Chapter 481, Government Code, is amended by adding Section 481.0842 to read as follows:

Sec. 481.0842. GUARANTEE-TO-RESERVE RATIO. (a) The department may guarantee loans as provided by Section 481.084 in an amount that exceeds the amount available in the fund. Loan guarantees may not exceed the guarantee-to-reserve ratio set by the policy board under Subsection (b).

(b) The policy board by rule shall adopt a guarantee-to-reserve ratio that determines the amount of loan guarantees that may be made that exceed the amount available in the fund. The ratio of guarantees to the amount of money available in the fund may not exceed two to one.

(c) The policy board shall review the guarantee-to-reserve ratio annually and adjust the ratio as appropriate. In reviewing the guarantee-to-reserve ratio, the policy board shall consider the payment experience of the loans and any recommendations of the state auditor as provided by Subsection (d).

(d) The state auditor shall review the loan guarantee program and payment activity and make recommendations based on that review to the policy board about the program and the guarantee-to-reserve ratio. A recommendation to the policy board shall be made not later than September 1 of each year.

SECTION 18. Section 481.101(1), Government Code, is amended to read as follows:

(1) "Historically underutilized [~~"Disadvantaged~~] business" means:

(A) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;

(B) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned, operated, and controlled by a person described by Paragraph (A) ~~[of this subdivision]~~;

(C) a partnership formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Paragraph (A) ~~[of this subdivision]~~. Those persons must have proportionate interest in the control, operation, and management of the partnership's affairs;

(D) a joint venture in which each entity in the joint venture is a historically underutilized ~~[disadvantaged]~~ business under this subdivision; or

(E) a supplier contract between a historically underutilized ~~[disadvantaged]~~ business under this subdivision and a prime contractor under which the historically underutilized ~~[disadvantaged]~~ business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

SECTION 19. Section 481.103(a), Government Code, is amended to read as follows:

(a) The office shall:

(1) examine the role of small and historically underutilized ~~[disadvantaged]~~ businesses in the state's economy and the contribution of small and historically underutilized ~~[disadvantaged]~~ businesses in generating economic activity, expanding employment opportunities, promoting exports, stimulating innovation and entrepreneurship, and bringing new and untested products and services to the marketplace;

(2) serve as the principal advocate in the state on behalf of small and historically underutilized ~~[disadvantaged]~~ businesses and provide advice in the consideration of administrative requirements and legislation that affect small and historically underutilized ~~[disadvantaged]~~ businesses;

(3) evaluate the effectiveness of efforts of state agencies and other entities to assist small and historically underutilized ~~[disadvantaged]~~ businesses and make appropriate recommendations to assist the development and strengthening of small and historically underutilized ~~[disadvantaged]~~ businesses ~~[disadvantaged business enterprise]~~;

(4) identify specific instances in which regulations inhibit small and historically underutilized ~~[disadvantaged]~~ business development and to the extent possible identify conflicting state policy goals;

(5) determine the availability of financial and other resources to small and historically underutilized ~~[disadvantaged]~~ businesses and recommend methods for:

(A) increasing the availability of equity capital and other forms of financial assistance to small and historically underutilized ~~[disadvantaged]~~ businesses;

(B) generating markets for the goods and services of small and historically underutilized ~~[disadvantaged]~~ businesses;

(C) providing more effective education, training, and management and technical assistance to small and historically underutilized ~~[disadvantaged]~~ businesses; and

(D) providing assistance to small and historically underutilized ~~[disadvantaged]~~ businesses in complying with federal, state, and local laws;

(6) describe the reasons for small and historically underutilized ~~[disadvantaged]~~ business successes and failures, ascertain the related factors that are particularly important in this state, and recommend actions for increasing the success rate of small and historically underutilized ~~[disadvantaged]~~ businesses;

(7) serve as a focal point for receiving complaints and suggestions concerning state government policies and activities that affect small and historically underutilized ~~[disadvantaged]~~ businesses;

(8) assist with the resolution of problems among state agencies and small and historically underutilized ~~[disadvantaged]~~ businesses;

(9) develop and advocate proposals for changes in state policies and activities that adversely affect small and historically underutilized ~~[disadvantaged]~~ businesses;

(10) provide to legislative committees and state agencies information on the effects of proposed policies or actions that affect small and historically underutilized ~~[disadvantaged]~~ businesses;

(11) enlist the assistance of public and private agencies, businesses, and other organizations in disseminating information about state programs and services that benefit small and historically underutilized ~~[disadvantaged]~~ businesses and information regarding means by which small and historically underutilized ~~[disadvantaged]~~ businesses can use those programs and services;

(12) provide information and assistance relating to establishing, operating, or expanding small and historically underutilized ~~[disadvantaged]~~ businesses;

(13) establish and operate a statewide toll-free telephone service providing small and historically underutilized ~~[disadvantaged]~~ businesses with ready access to the services offered by the office;

(14) assist small and historically underutilized businesses by:

(A) identifying:

(i) [identify] sources of financial assistance for those [small and disadvantaged] businesses; and

(ii) financial barriers to those businesses;

(B) establishing financing programs for those businesses that aid in overcoming financial barriers;

(C) matching those [match small and disadvantaged] businesses with sources of financial assistance; and

(D) ~~assisting those [assist small and disadvantaged]~~ businesses with the preparation of applications for loans from governmental or private sources;

(15) sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to small and historically underutilized ~~[disadvantaged]~~ businesses;

(16) assist small and historically underutilized ~~[disadvantaged]~~ businesses in their dealings with federal, state, and local governmental agencies and provide information regarding governmental requirements affecting small and historically underutilized ~~[disadvantaged]~~ businesses;

(17) perform research, studies, and analyses of matters affecting the interests of small and historically underutilized ~~[disadvantaged]~~ businesses;

(18) develop and implement programs to encourage governmental agencies, public sector business associations, and other organizations to provide useful services to small and historically underutilized ~~[disadvantaged]~~ businesses;

(19) use available resources within the state, such as small business development centers, educational institutions, and nonprofit associations, to coordinate the provision of management and technical assistance to small and historically underutilized ~~[disadvantaged]~~ businesses in a systematic manner;

(20) publish newsletters, brochures, and other documents containing information useful to small and historically underutilized ~~[disadvantaged]~~ businesses;

(21) identify successful small and historically underutilized ~~[disadvantaged]~~ business assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in this state;

(22) establish an outreach program to make the existence of the office known to small and historically underutilized ~~[disadvantaged]~~ businesses and potential clients throughout the state;

(23) adopt rules necessary to carry out this subchapter;

(24) identify potential business opportunities for small and historically underutilized ~~[disadvantaged]~~ businesses in the border region and develop programs to maximize those opportunities;

(25) identify potential business opportunities for small and historically underutilized ~~[disadvantaged]~~ businesses in rural areas of this state and develop programs to maximize those opportunities; and

(26) perform any other functions necessary to carry out the purposes of this subchapter.

SECTION 20. Section 481.107, Government Code, is amended to read as follows:

Sec. 481.107. CONTRACTS AWARDED TO SMALL OR HISTORICALLY UNDERUTILIZED ~~[DISADVANTAGED]~~ BUSINESSES. Each state agency shall keep statistical data and other records on the number of contracts awarded by the agency to small or historically underutilized ~~[disadvantaged]~~ businesses.

SECTION 21. Section 481.155, Government Code, as added by Chapter 1, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (g) to read as follows:

(g) During each state fiscal year the executive director shall attempt to ensure that at least 50 percent of the total dollar amount of grants awarded under this section is awarded to small businesses, as defined by Section 481.101.

SECTION 22. Subchapter J, Chapter 481, Government Code, as added by Chapter 1, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 481.1601 to read as follows:

Sec. 481.1601. LEGISLATIVE REVIEW COMMITTEE: REPORTS.

(a) The legislative review committee is composed of:

(1) two senators appointed by the lieutenant governor;

(2) two members of the house of representatives appointed by the speaker of the house of representatives; and

(3) one representative of business appointed by the governor.

(b) Every six months the executive director shall submit to the legislative review committee a report covering the previous six-month period and containing the information required for a report under Section 481.160. The legislative review committee shall review the report and submit to the executive director recommendations concerning the carrying out of the program.

(c) The executive director shall submit with the report required under Section 481.160:

(1) copies of the recommendations that the executive director has received from the legislative review committee during the preceding fiscal year; and

(2) a statement of the executive director's actions taken on the recommendations.

SECTION 23. Subchapter L, Chapter 481, Government Code, is amended by adding Section 481.174 to read as follows:

Sec. 481.174. ADVERTISEMENTS IN TOURISM PROMOTIONS. (a) The department may sell advertisements in travel promotions in any medium.

(b) The policy board shall adopt rules to implement the sale of advertisements under Subsection (a), including rules regulating:

(1) the cost of advertisements;

(2) the type of products or services that may be advertised;

(3) the size of advertisements; and

(4) refunds on advertisements that are not run.

(c) Proceeds from the sale of advertisements shall be deposited in the special account in the general revenue fund that may be used for advertising and marketing activities of the department as provided by Section 156.251, Tax Code.

SECTION 24. Section 481.182, Government Code, is amended to read as follows:

Sec. 481.182. DUTIES. The department shall:

(1) establish and maintain a central depository of information, including computer retrievable files, concerning the significant

characteristics of the state and its people, economy, land, and physical characteristics, including information concerning employment opportunities in the state;

(2) analyze the information collected under Subdivision (1) as well as other information and disseminate the information and analyses to state, federal, and local agencies and the public;

(3) serve as the official cognizant administrator of the United States Bureau of the Census federal-state cooperative;

(4) collect information and compile data on the border region for the preparation of specific plans and programs for the border region;

(5) adopt procedures to ensure the greatest use by and exchange among state agencies of data bases and statistical and analytical models created by or belonging to the state;

(6) assist institutions of elementary, secondary, and higher education to develop and expand programs of education in international commerce, geography, and language;

(7) establish and operate a comprehensive clearinghouse of information relating to small and historically underutilized businesses; and

(8) develop and maintain a master file of information on small and historically underutilized business assistance programs provided by federal, state, and local agencies, educational institutions, chambers of commerce, civic organizations, community development groups, private industry associations, and other organizations and provide comprehensive, timely information to persons seeking that information.

SECTION 25. Section 8, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) Not later than December 1 of each year, the department shall prepare an annual cost-benefit analysis of the program and submit it to the state auditor for review and comment on the methodology and conclusions of the study. Before each regular legislative session convenes, the state auditor shall submit the analyses and the state auditor's comments on the analyses to the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 26. Section 10(f), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The department shall allocate to each enterprise project at the time of its designation a job ceiling number representing the maximum number of new permanent jobs or retained jobs eligible to be included in any calculation for a tax refund for the enterprise project. The job ceiling number for a project may not exceed 625 or a number equal to 110 percent of the number of new permanent jobs or retained jobs that a qualified business in its application for designation commits to create or retain, as applicable, during the five-year term of its designation as an enterprise project, whichever is less. ~~[The maximum number of new permanent jobs that may be allocated by the department among all enterprise projects designated under this section between August 31, 1991, and August 31, 1993, is 10,000.]~~

SECTION 27. Effective August 30, 1993, Section 10(k), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is repealed.

SECTION 28. Section 151.429(b), Tax Code, is amended to read as follows:

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section of \$2,000 for each new permanent job or job that has been retained by [that] the enterprise project [provides] for a qualified employee [during the period of its designation as an enterprise project].

SECTION 29. The Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) is amended by adding Sections 5A and 5B to read as follows:

Sec. 5A. RULES. The policy board of the Texas Department of Commerce shall adopt necessary rules for the implementation and management of the job-training program.

Sec. 5B. CONTESTED CASES. A proceeding of the Texas Department of Commerce involving the job-training program is not subject to the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments relating to contested cases.

SECTION 30. Section 10, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. POLICY [RULES AND REGULATIONS]. The governor may develop policies [in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); prescribe such rules and regulations as] the governor deems necessary to carry out the provisions of this Act and the federal Act.

SECTION 31. During the state fiscal biennium beginning September 1, 1993, the Texas Department of Commerce may not certify more than 8,000 new permanent jobs or retained jobs under Section 10(f), Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), as amended by this Act, among enterprise projects designated after August 31, 1993. An enterprise project designated after August 31, 1993, may not receive a tax refund under Section 151.429, Tax Code, as amended by this Act, or a tax reduction under Section 171.1015, Tax Code, before September 1, 1995.

SECTION 32. (a) The state auditor shall conduct a study to review the impact of the program created under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) since its implementation. The comptroller, the Texas Employment Commission, and the Texas Department of Commerce shall provide the state auditor with data and assistance as necessary to complete the study. At a minimum, the study shall include:

(1) an examination of the impact of the program on the state as a whole as well as the impact on individual communities with enterprise zones, including the program's effect on state and local:

(A) tax revenues;

(B) tax bases;

- (C) socio-economic conditions; and
- (D) unemployment rates;

(2) a review of the incentives offered by local communities and the relative impact of the incentives on company location, expansion, and retention; and

(3) a survey of companies to determine the role of the state enterprise zone incentives on decisions of companies to locate, expand, or retain jobs in the zone.

(b) The state auditor shall complete the study required by this section and submit a report of its findings to the governor, lieutenant governor, and the speaker of the house of representatives not later than October 1, 1994.

SECTION 33. (a) The state auditor shall perform the first review of the rural economic loan guarantee program and payment activity and make a recommendation to the Texas Department of Commerce policy board regarding the program and the guarantee-to-reserve ratio as required by Section 481.0842, Government Code, as added by this Act, not later than December 1, 1993.

(b) The Texas Department of Commerce may guarantee loans in an amount that exceeds the amount available in the Texas rural economic development fund as provided by Section 481.0842, Government Code, as added by this Act, beginning January 1, 1994.

SECTION 34. Section 156.251(d), Tax Code, is amended to read as follows:

(d) An amount equal to the amount of revenue derived from the collection of taxes imposed by this chapter at a rate of one-half of one percent shall be allocated ~~[to a special account]~~ in the general revenue fund to be used for media advertising and other marketing activities of the Tourism Division of the Texas Department of Commerce. Section 403.094(h), Government Code, does not apply to funds described in this section. This subsection takes effect October 1, 1994.

SECTION 35. This Act takes effect September 1, 1993.

SECTION 36. For purposes of transition, the policy board of the Texas Department of Commerce shall review all rules adopted by the executive director and either adopt as a rule of the policy board or repeal such rules. If a rule that was adopted by the executive director is not adopted by the policy body by April 1, 1994, the rule is repealed. Until a rule is adopted or repealed as provided by this section, the rule is a rule of the policy board.

SECTION 37. The policy board of the Texas Department of Commerce shall review and either adopt as a rule of the department or repeal all policy issuances of the department regarding the job-training program under the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) not later than September 1, 1994. If a policy issuance has not been adopted as a rule of the department on or before September 1, 1994, the policy issuance is repealed. Until a policy issuance is adopted as a rule of the department or repealed as provided by this section, the policy issuance is a rule of the department.

SECTION 38. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The conference committee report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 426**

Senator Sibley submitted the following Conference Committee Report:

Austin, Texas
May 23, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 426 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SIBLEY

BIVINS

LUCIO

RATLIFF

ZAFFIRINI

On the part of the Senate

R. CUELLAR

DUNCAN

B. HUNTER

MORENO

RANGEL

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to family practice residency training pilot programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter I, Chapter 61, Education Code, is amended by adding Section 61.506 to read as follows:

Sec. 61.506. FAMILY PRACTICE RESIDENCY TRAINING PILOT PROGRAMS. (a) The Family Practice Residency Advisory Committee and a statewide advisory committee established by the Texas Board of Health under Section 31.017, Health and Safety Code, shall work together to enhance approved family practice residency programs and to establish three pilot programs to provide a major source of indigent health care and also to train family practice resident physicians.

(b) Each of the three pilot programs must be located in an area that reflects the diversity of this state.

(c) An approved family practice residency program that wants to participate in or sponsor a pilot program must make a proposal to the advisory committees.

(d) The advisory committees shall review all proposals submitted under Subsection (c) of this section and shall recommend to the board approved family practice residency programs to participate in or sponsor pilot programs.

(e) The board shall select approved family practice residency programs to participate in or sponsor pilot programs on the basis of each program's commitment to indigent health care and to training family practice resident physicians.

(f) The advisory committees shall use the financial reports, audits, and performance evaluations currently required under this subchapter and under Section 31.015, Health and Safety Code, to assess annually the financial feasibility and effective performance of the pilot programs. The advisory committees may require additional reports as necessary.

(g) The advisory committees shall send copies of their annual assessment of the pilot programs to the comptroller and the state auditor for review.

(h) If the advisory committees determine that a pilot program is not financially feasible or that it does not perform effectively, the advisory committees shall recommend to the board discontinuation of funding for the pilot program.

SECTION 2. Not later than February 1, 1995, the Texas Higher Education Coordinating Board shall report to each house of the 74th Legislature on the allocation of funds to the pilot programs established under Section 61.506, Education Code, and on the progress of those programs in training family practice resident physicians and in providing indigent health care.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The conference committee report was filed with the Secretary of the Senate.

MEMORIAL RESOLUTIONS

S.R. 1034 - By Shelley: In memory of Laura C. Rook of Crosby.

S.R. 1037 - By Brown: In memory of Sister Mary Walter Gutowski of Rosenberg.

S.R. 1038 - By Brown: In memory of Harris County Clerk Anita Rodeheaver of Houston.

CONGRATULATORY RESOLUTIONS

S.R. 1030 - By Ellis: Commending Blanca Villareal for her contributions to the Texas Legislature during the 73rd Legislative Session.

S.R. 1031 - By Brown: Recognizing Virginia Martin Yaklin on the occasion of her retirement from 29 years of teaching at Lake Jackson Intermediate School.

S.R. 1032 - By Armbrister: Designating May 24, 1993, as 4-H Day in Texas and commending the 4-H Youth Development Program of the Texas Agricultural Extension Service.

S.R. 1033 - By Shelley, Brown, Patterson, Henderson, Parker, Whitmire: Recognizing Dr. Joseph T. Painter, who will be installed as the 148th president of the American Medical Association.

S.R. 1035 - By Barrientos: Recognizing Becker Elementary School of the Austin Independent School District for winning first place in the Elementary School Division of the H.E.B./General Land Office Environmental Challenge.

S.R. 1036 - By Barrientos: Recognizing all those who made possible the Fire Safety House that will help the children of Central Texas learn how to live through a fire.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 4:49 p.m. adjourned until 10:30 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 24, 1993

ECONOMIC DEVELOPMENT — C.S.H.B. 31, H.B. 364, H.B. 1568 (Amended), H.B. 1791, H.B. 1872, H.B. 2534, H.B. 2858

STATE AFFAIRS — H.C.R. 126, H.B. 377, H.B. 1319, H.B. 1486, H.B. 1619, H.B. 1886, C.S.H.B. 2134

FINANCE — C.S.H.B. 2752

SIGNED BY GOVERNOR

(May 22, 1993)

H.B. 156 (Effective September 1, 1994)

H.B. 479 (Effective September 1, 1993)

H.B. 823 (Effective August 30, 1993)

H.B. 871 (Effective August 30, 1993)

H.B. 1447 (Effective August 30, 1993)

H.B. 2557 (Effective September 1, 1993)

S.B. 378 (Effective September 1, 1993)

S.B. 541 (Effective immediately)

S.B. 709 (Effective immediately)
S.B. 728 (Effective immediately)
S.B. 819 (Effective August 30, 1993)
S.B. 1302 (Effective immediately)

(May 23, 1993)

S.B. 6 (Effective September 1, 1993)
S.B. 291 (Effective September 1, 1993)
S.B. 330 (Effective immediately)
S.B. 362 (Effective August 30, 1993)
S.B. 419 (Effective September 1, 1993)
S.B. 594 (Effective immediately)
S.B. 1388 (Effective immediately)
H.B. 183 (Effective immediately)
H.B. 241 (Effective immediately)
H.B. 247 (Effective immediately)
H.B. 691 (Effective August 30, 1993)
H.B. 1170 (Effective September 1, 1993)
H.B. 1173 (Effective immediately)
H.B. 1335 (Effective September 1, 1993)
H.B. 1666 (Effective August 30, 1993)
H.B. 1780 (Effective August 30, 1993)
H.B. 2050 (Effective August 30, 1993)

(May 24, 1993)

S.B. 1379 (Effective immediately)

SEVENTY-SIXTH DAY

(Tuesday, May 25, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Bill M. Smith, retired minister of Lakeway Community Church, Austin, offered the invocation as follows:

Almighty God, our heavenly Father, we pray that You will behold and bless Your servants, the Senators of the State of Texas, here assembled. Grant them wisdom, strength, and discernment to know and to do Your will. We pray that law and order, justice